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Before the Committee on Appropriations

State Legalization Impact Assistance Grants Program [SLIAG]

Fiscal Year 1991

101st CONGRESS, SECOND SESSION

SPECIAL HEARING

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STATE LEGALIZATION IMPACT ASSISTANCE GRANTS PROGRAM [SLIAG]

HEARING

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

SPECIAL HEARING

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STATE LEGALIZATION IMPACT ASSISTANCE GRANTS PROGRAM [SLIAG]

WEDNESDAY, JUNE 27, 1990

U.S. SENATE,
SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:05 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Tom Harkin (chairman) presiding.

Present: Senators Harkin, Specter, and Gramm.

Also present: Senators Graham and Wilson.

NONDEPARTMENTAL WITNESSES

OPENING REMARKS OF SENATOR PHIL GRAMM

Senator GRAMM [presiding]. In the absence of our chairman, let me go ahead and begin the hearing. I know the distinguished Senator from California is here and I know how busy he is.

I would like to begin simply by stating on my own behalf that I am deeply concerned about funding for SLIAG. We entered into the SLIAG program, recognizing that the program was going to be slow-starting, but once it did start, that the level of funding demand was going to be substantial.

We entered into an extraordinary agreement in that $4 billion would be provided, $1 billion a year for 4 years, and then the States would have 7 years to expend the money. We recognized this would be necessary because it would be difficult for the States to start the program. You would have a rise in costs in the later years because of more people becoming eligible as the adjudication process proceeded.

We, I think, have seen our concerns borne out. The Federal Government has been slow in promulgating rules and issuing written guidelines and in putting into place the mechanism that would be needed to expend the money.

Therefore, I believe it is vitally important that we deliver on a commitment that was made to the States when the Federal Government enacted legislation that was not roundly popular in most of the States affected and that imposed very heavy costs on them. Now that we are in the process of seeing those costs being borne by the States, at the same time the Federal Government appears to be reneging on the overall commitment.

PREPARED STATEMENT

Let me just ask that testimony submitted from Texas be made a part of the record. Without objection—and there is no one here to object—it will be made part of the record.

[The statement follows:]

STATEMENT OF PATRICIA O. THOMAS

The Texas Health and Human Services Coordinating Council is the single state agency responsible for the application and distribution of SLIAG funds in Texas. The Council, chaired by the Governor, includes representation from the State House and State Senate, board chairs of major health and human services state agencies, and members of the general public.

Over a year ago, the Council was asked to testify before the House Subcommittee on Immigration, Refugees, and International Law regarding implementation of SLIAG in Texas. At that time, we were asked to explain reasons states have been slow to use SLIAG funds to defray state and local costs of providing public assistance, public health, and education services to the newly legalized population. The mistaken perception in Congress was that draw down of funds was slow because states do not need the full amount of SLIAG funds.

Reasons for slow implementation were many. Delays in promulgation of final federal regulations, delays in issuance of written federal guidelines on the allowability of services and documentation of costs, delays in issuance of federal cost-claiming guidelines, and states' inability to use SLIAG funds to conduct outreach to the eligible population directly caused delays in state implementation of SLIAG. Final regulations for SLIAG were not issued until March, 1988, yet applied retroactively to services delivered as early as May 5, 1987. The regulations mandated a new system of accountability for which Texas and most other states were not prepared; most of the state's health programs do not request information about citizenship status, nor do they track costs to a specific individual. In FY 1988, reconstruction of use of services and associated costs for a population which has historically remained unidentifiable was difficult and continues to be so.

Despite obstacles in claiming early costs, Texas has since instituted methods of establishing costs and drawing funds that may be useful models for other states. In July, 1989, the Cost Documentation System, a computerized cost-claiming system developed by the U.S. Department of Health and Human Services, became operational, and has allowed service providers to claim more accurate, and, therefore, additional costs.

The original design of the SLIAG program, which appropriated $1 billion for each of four years (FY 1988-1991) to be spent over seven years (FY 1988-1994), with provisions for carry over of funds, was based on Congressional acknowledgement that (1) initial state spending might be slow as states implemented SLIAG and (2) that costs would rise in later years as the size of the eligible population increased during the adjudication process.

Table I illustrates that Texas' pattern of drawdown of funds is consistent with this anticipated increase in program utilization and refinement of procedures for identifying costs.

Table 1. Drawdown of SLIAG Funds
Federal Fiscal Periods in Quarters
(dollars in millions)

1988 IV*	.062	1989 IV	31.276
1989 I	2.716	1990 I**	18.842
1989 II	13.141	1990 II	14.121
1989 III	9.895	TOTAL	90.056***

* Grant funds for fiscal year 1988 were not available to the state until July, 1988.
** Grant funds for fiscal year 1990 will not be available to states until after June, 1990. Draws for FY 1990 activities are from FY 1989 grant award.
*** Total rounded to the nearest thousand.

Table 2 illustrates the SLIAG costs claimed in Texas as of March 31, 1990 for administrative costs, and public health, public assistance, and education programs.

Table 2. Summary of SLIAG Costs
Claimed by Category
(July 1, 1988 - March 31, 1990)

Administrative Costs	$ 1,065,345
Public Health Costs	$10,956,371
Public Assistance Costs	$27,515,477
Education Costs	$50,518,938
TOTAL	$90,056,131

Of the five major states, Texas is second in the rate of drawdown; Texas has expended 25.40 percent of the FY 1988 grant allotment and 62.10 percent of the FY 1989 grant allotment as of March 31, 1990. As of this date, the U.S. Department of Health and Human Services has not issued FY 1990 grant awards. The state is using FY 1989 grant funds to cover the costs of FY 1990 programs and activities until the FY 1990 funds are available.

At the current rate of drawdown and with full reimbursement of estimated state costs for public health, public assistance, and education services to the newly legalized population, the state expects that all SLIAG funds may be expended by the end of FY 1992. The Council is developing a spending plan to establish priorities for fiscal years 1991 through 1994 in anticipation of higher estimated costs for SLIAG-allowable activities than available SLIAG grant funds.

Last year, the federal appropriations process resulted in a reduction of $555 million in SLIAG funds for FY 1990 with a provision for repayment in FY 1992 because of the belief that SLIAG funds were not immediately needed by states. The President's budget proposal for FY 1991 now recommends a cut of $537 million and removes the provision to repay the $555 million in FY 1992 because of the belief that the funds are definitely not needed by states.

In administering the SLIAG grant, Texas has witnessed an accelerated rate of drawdown that demonstrates the state will, in fact, spend the full amount of funds allotted. Program utilization trends continue to bear out the conviction that costs and numbers will continue to escalate as (1) the Immigration and Naturalization Service completes adjudication of eligible persons, (2) newly legalized persons overcome their long-standing fear of accessing government agencies and unfamiliarity with available services, and (3) providers refine procedures to identify eligible persons and document costs.

In addition, in December, 1989, Congress passed the Immigrant Nursing Relief Act which now allows states to use SLIAG funds to conduct outreach to the eligible population about Phase II legalization requirements, the importance of identifying oneself to service providers as temporary legalized residents, and the health, education, and social services available for their use. The state expects to see increased service utilization due to outreach efforts.

Program utilization trends suggest an upward trend through FY 1993. For example, Texas has fully supported SLIAG-funded adult education classes to ensure that individuals meet citizenship requirements, that the newly legalized population has the language and literacy skills to improve job opportunities, and to assure that individuals are given the opportunity to become productive citizens in their communities. Education costs are expected to remain high as the eligible population continues to receive instruction beyond the hours required for legalization. Education expenditures currently account for 56 percent of total SLIAG funds drawn down to the state and would directly be affected by the reduction of funds to the state.

Public assistance programs, which the U.S. Department of Health and Human Services has defined as means-tested social services, as well as direct medical assistance, have also incurred high costs. In Texas, the public assistance services with the highest identified ELA-related costs are found in public hospitals (twenty seven of which are rural hospitals out of the forty-three hospitals participating in SLIAG), medical schools, county health departments, and adult education. SLIAG not only provides fiscal reimbursement to these local providers, but also assures the availability of needed services for ELAs. The state expects that indigent care costs incurred by public hospitals and medical schools will likely increase as the public charge determination process expires for permanent residents and outreach efforts decrease their fear of access.

The current proposal by President Bush to reduce SLIAG funding in FY 1991 by $537 million and to rescind the payback provision for funds cut in FY 1990 would mean a loss in Texas of approximately $135 million. This would place the major fiscal burden of the Immigration Reform and Control Act on the state and its localities, contrary to the original intent of the impact assistance grants.

Texas is complying with federal directives to provide services within the constraints of limited state and local government budgets. Agencies in Texas have identified a total of approximately $800 million in health, human services, and education budget shortfalls over the FY 1990-1991 biennium and anticipate possible reductions in all services until additional state revenues are found. The absence of SLIAG funds will exacerbate the situation; other states share this common difficulty. Texas fully expects to spend all SLIAG funds in the time frame stipulated by the Immigration Reform and Control Act and believes any reduction in SLIAG funding would be premature. It would put the newly legalized population at risk of not receiving citizenship and not receiving needed health care, and create a financial burden on the state and its localities. Texas encourages responsible Congressional action in upholding the original intent of IRCA.

STATEMENT OF HARRIS COUNTY HOSPITAL DISTRICT

STATE LEGALIZATION IMPACT ASSISTANCE GRANT PROGRAM

BACKGROUND

The Immigration Reform and Control Act of 1986 (IRCA) established a legalization program for certain undocumented aliens. Over three million persons applied for lawful temporary resident status under this program.

Recognizing the financial impact of newly-legalized aliens on State and local governments, Congress created the State Legalization Impact Assistance Grant (SLIAG) program. IRCA authorized and appropriated $4.0 billion in SLIAG funding, $1.0 billion per year for fiscal years 1988-1991. Congress also authorized expenditures of these funds over a period of seven (7) years, until September 30, 1994, because it was recognized that the impact would be felt in later years for this population.

SLIAG funds are used to offset State and local costs of providing certain public assistance, health, and education services to the newly-legalized aliens. In the case of public education programs, these are new programs designed to assist newly-legalized aliens in complying with federal language and civics requirements.

The initial spend-down of funds has been slow due to Federal administration confusion, delays in program implementation, design and requirements on the State and local level. However, the spend-down of SLIAG funds has accelerated substantially since 1988. Estimates show that the full $4.0 billion will be necessary to meet current and projected utilization levels.

For FY '90 Congress reduced SLIAG funding in the amount of $555.0 million. However, Congress also voted to restore this amount in FY '92, thus creating a fifth year of SLIAG funding.

The Administration has proposed to reduce FY '91 funding by $537.0 million and to eliminate SLIAG funding for FY '92. These proposals will put the newly-legalized population at risk, create a financial burden for states and localities, destroy the federal/state partnership established by SLIAG and endanger future inter-governmental relations. Congress should continue to fund SLAIG in the amount of $1.0 billion per year as authorized and appropriated in IRCA.

REASONS TO OPPOSE REDUCTION IN SLIAG APPROPRIATIONS

- Funding Reductions Violate the Original Federal-State Agreement Accompanying the Passage of the Immigration Reform and Control Act (IRCA) of 1986.

In supporting IRCA in 1986, the effected state's governor's made clear that they could not pay for the additional statutorily mandated services for which the newly-legal aliens would qualify. Congress, accordingly, agreed to reimburse states for these costs in the amount of $1.0 billion for each of FYs 1988-1991. Reductions of funding will violate the agreement which supported passage of IRCA.

Reduced Funding Will Have Severe Impacts on the Budgets of State and Local Governments.

For example, Harris County Hospital District for Fiscal Year Ended March 31, 1990 incurred over $7.0 million in allowable SLIAG costs, serving approximately 1200 Legalized Aliens and rendered over 7000 patient days and 5000 outpatient visits. Over 70% of the cases were Maternity, and approximately 30% resulting from Trauma. The City of Houston and Harris County will have incurred an allowable cost in excess of $3.0 million. Reduced funding would eliminate the resources to provide the needed services to the at-risk population covered under SLIAG funds.

Reduced Funding Will Have A Severe Impact on Rural Public Hospitals in the State of Texas.

Approximately 34% of the non-metro county Hospital Districts in Texas contract with the Texas Department of Health for SLIAG reimbursement. These Hospital Districts account for approximately 63% of the SLIAG contracting hospitals in the State of Texas as of April 1990. These hospitals for the past three (3) years have received in excess of $350,000 or approximately $12,500 per institution. It is further estimated if funding is reduced as proposed the five (5) year loss, through FY '94, will result in an approximate $1.7 million reduction in SLIAG funding to these hospitals. Although this amount may seem minimal, for many rural public hospitals in the State of Texas this loss will result in further closures; thereby, not only restricting access to SLIAG eligibles but also to the effected rural community as a whole.

Reduced Funding Will Have a Severe and Unfair Impact on Residents and Providers of Impacted Communities.

Reduced funding for the State of Texas in terms of FY 1990 and 1991 would approximate $64-66 million under the proposed reductions. Texas public hospitals would receive the heaviest reductions under proposed funding reductions. For services rendered during FY '88 and FY '89, the 43 contracting Texas public hospitals rendered over 4,700 admissions and 17,300 outpatient encounters, incurring an allowable SLIAG cost in excess of $15.2 million. The majority of the care rendered was maternal in nature. It is estimated that the cost to treat the SLIAG eligible population will exceed $103.0 million in Texas alone for FYs '90-'94. These costs will not be reimbursed to these Safety Net providers if SLIAG funding is reduced as proposed.

City and county public health and public assistance programs will be severely curtailed by the reductions in funding particularly in the area of Maternal and Child Health programs. SLIAG funded Adult Education programs, of which approximately 160,000 are currently enrolled, will be severely curtailed which could have the effect of endangering the at-risk IRCA population's ability to comply with the mandated education programs for full Permanent Resident Status.

The Lack of Full Spend-down of SLIAG Funds Has NOT Been Due to Lack of Need For Such Funds.

Federal administrative confusion and delay in program implementation has resulted in the initial delay in spend-down of funds. The Division of Family Support has presented State and Local governments with complex, confusing and burdensome requirements for the identification of Eligible Legalized Aliens (ELAs) and documentation of costs. The administrative costs, as well as, the cost of documentation and compliance requirements have exceeded in many instances the costs of provided various SLIAG eligible programs in the State of Texas. Examples include cancer screening of at-risk populations, alcohol and substance abuse services, and most Mental Health and Mental Retardation services. The issue is that the Federal bureaucracy has impeded and established barriers for States and local units of government to reimburse programs which Congress intended for the SLIAG population.

Full Funding of SLIAG is Necessary Because of the Continued Growth of the Service Population.

The SLIAG service population has grown since implementation of the program and this population will continue to grow. This is because of the following three issues. First, late application filing, since most applications arrived in the last weeks of the application filing deadline. Second, slow processing of IRCA applications with nearly 700,000 cases nationwide, of which 74,800 reside in Texas, remaining unadjudicated by the Immigration Neutralization Service (INS). Third, slow utilization due to the Alien's typical fear of governmental agencies and slow utilization of the available services due to this fear. Thus although initial SLIAG spend-down has been slow, current estimates project the full $4.0 billion to be used to meet utilization levels.

STATEMENT OF HON. PETE WILSON, U.S. SENATOR FROM CALIFORNIA

Senator GRAMM. Let me recognize the distinguished Senator from California, Pete Wilson, for any comments he might have. Then I will turn this over to my British cousin, to be chairman of this hearing.

Senator WILSON. Thank you very much, Mr. Chairman.

I am very grateful, not only because this hearing has been called, but I think your statement indicates that I am preaching to the choir. Perhaps the two Gramms, the British and the German, if they were permitted to dispose of this problem alone could do so very quickly.

But I think you have made the point very well, Senator. You have indicated just exactly what is felt by those who have served in local government and those who are currently serving; those who will attest to the true impact of the Federal policy shifts in cost and, really, what you have accurately described as a defaulting upon Federal responsibility, which, inevitably, falls upon the shoulders of State and local government.

I commend you for your putting that as concisely and forcefully as you have, and I also commend Senator Graham, of Florida, for his persistence in scheduling this hearing. He has been persistent as well in his efforts on the floor to see to it that the Federal Government did keep its promise.

As this hearing proceeds, I urge that those who are other members of the committee bear in mind, as you clearly have, one thought, and that is that State and local governments are really powerless to protect themselves from the consequences of this Federal default, as they are powerless to protect themselves from the consequences of Federal immigration policy.

It was for this very reason that I cosponsored the Graham amendment last year, to maintain the essence of the compromise agreement on SLIAG, even though I have serious reservations whenever the Federal Government is allowed to defer honoring its just obligations.

That is also the reason why I will strenuously oppose efforts this year that unilaterally alter the agreement and force the affected States and local governments to pick up the tab for Federal policy decisions. A deal is a deal. I think you have put that very well, Mr. Chairman.

I regret that State and local governments did not have the benefit of a similar hearing prior to last year's appropriations debate, when SLIAG was slashed by some $555 million. That would have been an extremely valuable thing, and I am particularly grateful that they will have that opportunity this year.

Today, Mr. Chairman, you will hear from several representatives of State and local government who will explain their experiences with this program and set the record straight relative to many misconceptions, some that have stemmed from the Office of Management and Budget and been happily fastened on to by members of the legislative Branch with respect to the failure of local governments to draw down upon the SLIAG funds.

As Senator Gramm indicated, it was our clear understanding, when SLIAG was enacted, that there would be a 4-year appropriation and a 7-year drawdown because of the necessary delays built into implementation and the needs would not, we understood, clearly surface, other than through that prolonged period.

So I urge you to consider the testimony of the witnesses today very carefully so as to understand just what will happen if the SLIAG commitment continues to be broken.

As many here will underline today, entire communities will suffer dangerous fiscal consequences and shortfalls in essential public services if SLIAG is not fully funded.

Let's be clear with ourselves: cutting SLIAG funds does not cause the demand for services or for the related costs to disappear. It merely shifts those costs, that burden, unfairly and inappropriately, to a few States and local governments.

There is no need for me to rehash the events of last fall that resulted in what I have referred to as a SLIAG feeding frenzy. Those same arguments we made on the Senate floor last year in support of the Graham amendment are valid today. When hospitals cannot be reimbursed, when people cannot receive the language training they need, when outlays for public assistance programs go unreimbursed, it is not a simple case of a legalized alien not receiving a service. Instead, entire communities will be penalized for a policy over which they had no control.

California's profile is well known to the members of this subcommittee, and certainly to those who debated at length the actual amnesty and SLIAG provisions during the long and contentious Immigration Reform and Control Act deliberations.

Let me just recite a few facts that may help the subcommittee put this issue in perspective as it relates to California.

California is home to approximately 1.6 million amnesty recipients and is by far the largest recipient of SLIAG funds. In Los Angeles County alone, more than 1 out of every 10 residents applied for amnesty. That is 850,000 people, and it is about one-quarter of the Nation's total amnesty population. Or, to give a basis for comparison, Mr. Chairman, that is about four times the size of Des Moines.

Senator **Harkin** [presiding]. Yes; that's about right.

Senator **Wilson**. Over 20 percent of all hospital admissions in Los Angeles County are legalized aliens. That is one in five.

One of every two hundred babies born in this country is born to an amnesty applicant in one Los Angeles County hospital, the Women's Hospital in East Los Angeles.

For the Federal Government to back out of its agreement and not provide full SLIAG, or simply act to defer its current obligations is of little assurance to California local governments who must provide these essential services today and to entire communities every day.

To jeopardize the provision of adequate health care because of inadequate funding of this very area is wrong and it will have a ripple effect in communities nationwide.

Now, much has been said about the localities. But what is the typical profile of an amnesty recipient? The California Department of Education informs me that some 86 percent of this population is functioning below the literacy benchmark for the State welfare population. Many do not speak English, and about one-third are illiterate in their own language.

The majority of amnesty recipients and 70 percent of the seasonal agricultural worker applicants do not have health insurance coverage. In the event of a major catastrophic illness, it is the local, publicly supported health care facility that bears the cost.

This is hardly the profile of a population that will not need continued assistance. We have to get them literate and productive.

To assert that these individuals will not need the services currently reimbursed under SLIAG is patently erroneous. In fact, the costs associated with the amnesty recipient will surely exceed the $4 billion which Congress authorized and appropriated under the Immigration Reform and Control Act.

But the affected State and local governments are not asking for more than their fair share. They are committed to holding up their end of the SLIAG bargain. They have no choice, and they are performing admirably, given the very confusing implementation process and the administrative headaches that inevitably accompany a program of this magnitude.

Is it unreasonable to expect that the Federal Government will simply honor its commitment? To judge a program based solely on phantom budgetary figures without regard to the human factor or the Federal commitment behind the program—which is how the administration and Congress have viewed this program—is patently unfair and not in keeping with the partnership that was forged between the Federal, State, and local governments in the Immigration Reform and Control Act.

I cannot overstate the critical importance of full SLIAG funding to the State of California and to other States and local governments with large populations of legalized aliens. I strongly urge the subcommittee to look very closely at the intent of the SLIAG program and to give it your full support and honor the commitment to full funding.

Thank you very much, Mr. Chairman.

Senator **Harkin**. Senator Wilson, thank you very much.

I apologize for coming in a little bit late. I was trying to get a couple of bills through another committee, so I had to get those done before I got here. At this point I would like to submit my opening statement for the record.

Again, I apologize. Thank you for your testimony.

[The statement follows:]

OPENING STATEMENT OF SENATOR TOM HARKIN

The subcommittee will come to order.

Today we will examine funding needs for the State Legalization Impact Assistance Grant [SLIAG] program. These grants are intended to offset costs incurred by State and local governments in providing public assistance, health, and educational services to aliens legalized under the Immigration Reform and Control Act of 1988. More than 3 million aliens applied for legalization, of which the administration estimates 2.7 million will actually be approved.

In an unusual move, Congress in 1986 bypassed the Appropriations Committee to enact the $4 billion SLIAG appropriation, as part of the Immigration Reform and Control Act. Under normal procedures, substantive legislation merely authorizes funding levels for programs which then have to compete with other activities for resources in annual appropriations bills. The law provided for an automatic appropriation of $1 billion for each of fiscal years 1988 through 1991 was provided for SLIAG activities, to remain available for expenditure through 1994 to meet the extra costs of legalizing several million aliens.

In last year's appropriations process, Congress shifted $555 million of fiscal year 1990 SLIAG appropriations into fiscal year 1992, leaving the overall $4 billion amount unchanged. This action was taken due to extraordinary budget constraints facing the subcommittee, to meet urgent funding needs that could not be deferred, and because $555 million was not needed to pay bills in fiscal year 1990. The President proposed an outright reduction in SLIAG funding.

Here's where the funding situation stands today: A total of $2.1 billion has been made available to the States in fiscal years 1988–90. For fiscal year 1991, the administration proposes to limit additional funding to $302 million, representing a cutback of $537 million below the level that would otherwise become available from the permanent appropriations. Thus, by the end of fiscal year 1991, cumulative State resources would amount to $2.4 billion. No further funding would be provided by the administration recommendation to cover costs through fiscal year 1994, when the program is scheduled to expire. Expenditures, according to the administration, so far have amounted to $722 million, leaving an unspent balance of $1.7 billion to cover additional costs over the next 15 months, through the end of fiscal year 1991. Another $55 million, which the administration proposes to rescind, becomes available in fiscal year 1992, and can be used to reimburse for costs incurred in fiscal years 1990 and 1991.

There appears to be a lot of uncertainty about what State "draw-down" (expenditure) will actually be. The history of this program has shown there is a considerable delay between the time services to legalized aliens are performed, costs document and submitted, and reimbursement certified by the Family Support Administration. Also, I understand there are unresolved differences between the administration and some States over procedures that can be used to estimate allowable costs which can be submitted for reimbursement. These differences, involving large States such as New York and California, would have a significant bearing on the level of reimbursements finally agreed to.

The hearing is organized into panels, as follows: (1) testimony from officials of the Family Support Administration, the Federal agency responsible for SLIAG; (2) service providers representing local, State, and national perspectives; (3) a report from Rand Corporation representatives about their soon-to-be published study on SLIAG implementation; and (4) independent assessments of spending needs by GAO and the Department of Health and Human Services' Office of Inspector General. Due to our time constraints, we ask that all witnesses summarize their remarks within 5 minutes. More detailed statements can be included in the hearing record.

Joining members of the Appropriations Committee at the dais is Senator Bob Graham of Florida, who has been instrumental in seeing that this special oversight hearing came about. Before proceeding with witness testimony, I will ask Senators if they care to make any opening comments, beginning with the ranking minority member of the subcommittee, Senator Arlen Specter of Pennsylvania.

STATE OF SLIAG PROGRAM

Senator **Harkin**. I would defer now to Senator Graham for any questions that he may have.

Senator **Graham**. Mr. Chairman, I do not have any questions of Senator Wilson. I appreciate the excellent statement that he has made. He has placed it in such human terms, both the commitments that were made, the commitments that were relied upon, and the consequences if those commitments are not sustained.

I appreciate his very active participation in this hearing and the encouragement that he has given to representatives of the State of California to be here today to give their specific response to the state of the SLIAG program.

Senator **Wilson**. Thank you very much, Senator.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF SENATOR ALAN CRANSTON

Senator **Harkin**. Thank you very much, Senator Wilson.

Senator Cranston has also said that he has a great interest in this matter and that he wanted to be here to join Senator Wilson. But due to a conflict, he will be submitting testimony for the hearing record.

[The statement follows:]

Statement of Senator Alan Cranston

Mr. Chairman, I appreciate this opportunity to provide the Senate Appropriations Subcommittee on Labor, Health and Human Service, Education with testimony in support of full funding for the State Legalization Impact Assistance Grants [SLIAG] program for fiscal year 1991.

I am opposed strongly to the administration's proposal to cut $537.4 million from the SLIAG program for fiscal year 1991, and to rescind $567.4 million that Congress agreed to pay back into the program for fiscal year 1992 for moneys taken in fiscal year 1990. I am also very concerned by efforts in the Senate to defer full funding for the program from fiscal year 1991 to other years.

My objection to any proposal to reduce and then defer or rescind SLIAG funding is based on the simple fact that the money is needed to provide vital services to amnesty applicants. The administration cites the inability of the States to draw down SLIAG funds as evidence of the lack of justifiable expenses. On the contrary, low SLIAG outlays to date are reflective of the poor Federal administration of the program.

The Department of Health and Human Services [DHHS] was slow in promulgating SLIAG regulations and guidelines, and it has been slow in reimbursing the States for the costs of services provided to amnesty applicants under IRCA. In California, for example, Los Angeles County has received payments through fiscal year 1989 for only $32 million of $245 million in SLIAG reimburseable costs incurred for health and mental health services.

The delays in the draw down have been further exacerbated by the fact that DHHS imposes stringent cost documentation requirements on State and local governments, which are trying desperately to jump through the many hoops that the Federal Government has constructed for them. Their difficulties in mastering the Federal bureaucratic maze should not be equated with a lack of need. If anything, the data reveals that the costs to the State and local governments are going to exceed the $4 billion originally preappropriated for the program.

We cannot overlook the fact that the SLIAG program is operating exactly as was intended. Congress, recognizing the complexities of starting up a new Federal program, and also the fact that costs for services could grow rapidly with little advance warning, provided the States with $1 billion a year for 4 years, but allowed the States up to 7 years to spend the money.

As was originally contemplated, the costs of the SLIAG program have increased and will continue to increase due to the nature of the legalization program itself. Most Eligible Legalized Aliens [ELA's] did not apply for legalization until the latter half of fiscal year 1988 and the early part of fiscal year 1989. Thus, the heavy demand for English language classes and civic instruction, both of which are required by IRCA for ELA's to become permanent residents, did not occur until the latter part of fiscal year 1989.

Additionally, demand and utilization of other SLIAG services are increasing as ELA's overcome their fear of jeopardizing their eligibility for legalization by receiving these services. To reduce SLIAG funding at a point when it is most needed would be shortsighted and result in adverse consequences for not only the State and local governments, but the ELA's themselves.

Mr. Chairman, full funding of this important program also touches on an issue of fairness. It is the Federal Government, and not the State and local governments that have jurisdiction and control over our borders. Thus, when undocumented persons reside in our country, financial responsibility for those persons should rightfully rest on the Federal Government.

One provision of the Immigration Reform Control Act of 1986 was to bar amnesty applicants from receiving most Federal benefits for 5 years. However, through much deliberation, negotiation, and compromise we assured the States that we would reimburse them for the costs of providing these applicants with access to State and local health and social services programs.

By reducing and then rescinding or deferring SLIAG funding for fiscal year 1991, we place the fiscal burden of the Federal amnesty program squarely on the shoulders of State and local governments. It is patently unfair for the Federal Government to continue to protect its own budget from the increased costs associated with legalized aliens without similarly protecting the States. State and local governments are going to be put in the position of making difficult budgetary decisions to provide an adequate level of services for everyone, not just amnesty applicants. Let us make no mistake about it—a reduction in SLIAG funding will result in a reduction in State and local services, and ultimately create a backlash against the amnesty applicants themselves.

Mr Chairman, my State of California is home to 1.6 million of the 3 million applicants who applied for amnesty under IRCA. Further reductions in the SLIAG program are going to have deleterious effects on social programs State-wide and will ultimately hurt the very people we originally attempted to help with the amnesty program. I urge the committee to retain full funding for the SLIAG program for fiscal year 1991.

STATEMENT OF SENATOR BOB GRAHAM

Senator **GRAHAM**. Mr. Chairman, I have a brief statement which I hope I may be able to make at this time.

Senator **HARKIN**. Sure. I will recognize the Senator from Florida.

Senator **GRAHAM**. Previously we had the Senator from Texas, the Germanic Senator Gramm was here, and he was commenting about the Germanic and the English Grahams. Since my comments will largely be on history, I would like to make one correction. My family's origins are Scottish, rather than British, which is significant in part because it was the Graham clan which, at the end of the 18th century, forced the King of England to reverse a misguided policy that had prevented the Scots for almost a half century from wearing kilts. [Laughter.]

And so, we are proud of our contribution to Scottish heritage. My discussion today will be on another aspect of history and heritage.

Mr. Chairman, I want to thank you and Senator Specter for your willingness to hold this subcommittee hearing today and give an opportunity for a specific focus on the State legalization impact assistance grants, the SLIAG program.

This hearing today is critical for States and local communities for at least two reasons. It is the first opportunity that recipients of SLIAG funds have had to share with the Senate the problems that they are encountering in the implementation of SLIAG and their projected costs resulting from the amnesty program of the Immigration Reform and Control Act, or IRCA, of 1986.

The second reason why this hearing is so important to States and local communities—and perhaps this is even more important—is that this hearing is about the profound question of intergovernmental relationships. It is about a partnership between the Federal Government, States, and local governments.

It goes to the heart of the question of whether the Federal Government can be a reliable partner with the States and local governments. Using the SLIAG example, I believe it will be demonstrated why States and local governments are increasingly reluctant to enter into such partnerships, mainly due to the uncertainty of the Federal Government's commitment to living up to its part of the bargain.

In 1981, Congress began a lengthy and controversial debate on a sweeping reform of U.S. immigration law. After years of debate, IRCA was signed into law on November 6, 1986. During this time, I served as Governor of the State of Florida and chairman of the National Governor's Association Task Force on Immigration and Refugee Issues.

I speak today as a participant and eye witness to the compromise on immigration reform reached by the 99th Congress.

One of the most vexing issues of the debate was the issue of amnesty for certain undocumented aliens and seasonal agricultural workers, referred to as "SAW's." Included in the new law was a provision that provided amnesty to undocumented aliens residing in the United States prior to January 1, 1982, and to SAW's who had worked 90 days in agriculture between May 1, 1985, and May 1, 1986.

A related and equally controversial issue was who would pay the costs associated with the amnesty program. IRCA specifically prohibits amnesty applicants from becoming public charges. Who then would pay for the expenses incurred by the States and local governments in providing public assistance, public health, and educational services to eligible, legalized aliens?

The question had to be answered before any compromise could be reached. States and counties could not agree to a package until they were given adequate assurances that they would not be stuck with the bill. The key issue centered on the level of funding required to reimburse the States and local governments and the form the program would take. Should it be a block grant or a categorical grant program? Should 100 percent of the costs be reimbursed, or should States and counties pay a portion of the cost?

Simply stated, had the conference agreement not included the SLIAG program, States and counties would not have supported the 1986 bill. In fact, the 98th Congress adjourned without an immigration reform bill primarily due to the inability of the conference committee to reach agreement on this issue of reimbursement.

I would like to submit for the record 17 documents that detail in chronological order the States' and local governments' concerns about the level and form of the reimbursement program.

[The information follows:]

STATEMENT OF THE NATIONAL GOVERNOR'S ASSOCIATION

August 2, 1983

The Honorable Thomas P. O'Neill, Jr.
Speaker of the House of Representatives
U.S. Capitol
Washington, DC 20515

Dear Mr. Speaker:

The National Governors' Association has gone on record in strong support of the basic concepts of the Simpson-Mazzoli Bill and we urge your positive vote on this important issue. This legislation grew out of the Select Commission on Immigration, chaired by Father Hesburgh, and has overwhelming support among the citizens and among the governors.

We urge your special consideration of the following amendments:

1. Reimbursement to state and local governments for expenses caused by this legislation.
2. Increased funding of the U.S. Immigration and Naturalization Service for both its enforcement and service functions.
3. A workable and streamlined adjudication process for asylum and exclusion.
4. Strong and effective non-discriminatory employer sanctions.

The United States has always had a generous and humane immigration policy and the Simpson-Mazzoli Bill will continue this tradition while stopping abuses.

Sincerely,

Bob Graham — Florida
State

Colorado
State

John D. Rockefeller IV — West Virginia
State

Bill Clinton — Arkansas
State

Terry E Branstad — Iowa
State

Tom H Kean — New Jersey
State

Illinois
State

State North Carolina

State Massachusetts

Richard W. Riley State South Carolina

J. Joseph Garrahy State Rhode Island

State Florida

State Colorado

John Carlin State Kansas

Bill Janklow State South Dakota

Bob Kerrey State Nebraska

Bill Sheffield State Alaska

Allen I. Olson State North Dakota

Ted Schwinden State Montana.

John V. Evans State Idaho

Richard H. Bryan	Nevada State
George Nigh	Oklahoma State
Joe Frank Harris	GEORGIA State
Harry Hughes	MARYLAND State
William Winter	Mississippi State
Anthony S. Earl	WISCONSIN State
James J. Blanchard	Michigan State
Charles S. Robb	VIRGINIA State
Mark White	Texas State
Christopher S. Bond	Missouri State
Richard A. Snelling	Vermont State
Lamar Alexander	Tennessee State
George R. Ariyoshi	Hawaii State
Scott M. Matheson	Utah State
Richard F. Celeste	OHIO State

STATEMENT OF THE NATIONAL ASSOCIATION OF COUNTIES; NATIONAL ASSOCIATION OF STATE LEGISLATURES; NATIONAL GOVERNORS' ASSOCIATION AND THE U.S. CONFERENCE OF MAYORS

The Honorable Thomas P. O'Neill, Jr.
Speaker of the House of Representatives
U.S. Capitol
Washington, D.C. 20515

December 15, 1983

Dear Mr. Speaker:

It is our understanding that the House plans on considering H.R. 1510, the Immigration Reform and Control Act, during the Second Session of the 98th Congress.

We are writing to express the strong support of our organizations for the provision in the legislation which authorizes federal reimbursement of expenses incurred by state and local governments in aiding illegal aliens who would be granted legal status under the bill.

Without federal financial assistance, legalizing the status of several million illegal aliens will increase state and local costs because, as legal residents, they will become eligible for forms of assistance which are not available to illegal aliens. While there is a provision in H.R. 1510 which would authorize state and local governments to make legalized aliens ineligible for financial and medical assistance, we are concerned that, if state and local jurisdictions exercise this authority, they would face litigation regarding its constitutionality.

The reimbursement approach does not presuppose that the individuals who will adjust their status under the bill will become dependent on public services. Rather, it seeks to ensure that to the extent services must be made available, state and local governments will not bear the cost. This is especially important in view of the fact that the legalized aliens will be ineligible for federal benefits.

Our organizations urge the retention of the current provision. We firmly believe that the federal government--not states and localities--should bear financial responsibility for the costs of the legalization program. It is the federal government which is responsible for national immigration policies--including controlling our borders against illegal immigration.

We appreciate your efforts in this area and urge that any compromise on immigration reform retain this provision of importance to state and local governments.

Sincerely,

Sandra R. Smoley
Sandra Smoley
Supervisor of Sacramento County, California
President
National Association of Counties

Richard H. Fulton
Richard H. Fulton
Mayor of Nashville, Tennessee
President
U.S. Conference of Mayors

David Roberti
David A. Roberti
President Pro Tempore
California State Senate
Chairman
NCSL Task Force on
Refugees and Immigration

Bob Graham
Governor Bob Graham
State of Florida
Chairman
NGA Task Force on Immigration
and Refugee Issues

STATEMENT OF THE NATIONAL GOVERNOR'S ASSOCIATION

May 23, 1984

TO MEMBERS OF THE HOUSE OF REPRESENTATIVES:

It is our understanding that the House will soon consider the Immigration Reform and Control Act of 1983, H.R. 1510.

As illustrated in the attached letter to the Speaker, the National Governors' Association has been very concerned about the need for immigration reform and the Governors have taken positions on several issues addressed in the pending bill. Of particular importance are (1) an increase in federal resources for enforcement and border patrol; (2) full federal reimbursement for state and local governments for all costs caused by the legalization programs; (3) a fair and expeditious adjudication process for asylum and exclusion; and (4) non-discriminatory employer sanctions.

The National Governors' Association strongly supports the provision in the Immigration Control and Reform Act of 1983 (H.R. 1510) which authorizes federal reimbursement of expenses incurred by state and local governments in assisting illegal aliens who would be granted legal status under the bill.

It is our understanding that there may be an amendment on the floor to strike the reimbursement provision and replace it with a block grant. We urge you to support the retention of the reimbursement provision.

Without federal financial assistance, legalizing the status of several million illegal aliens will increase state and local costs because, as legal residents, they will become eligible for forms of assistance which are not available to illegal aliens. While there is a provision in H.R. 1510 which would authorize state and local governments to make legalized aliens ineligible for financial and medical assistance, we are concerned that, if state and local jurisdictions exercise this authority, they would face litigation regarding its constitutionality.

The reimbursement approach does not presuppose that the individual who will adjust their status under the bill will become dependent on public services. Rather, it seeks to ensure that to the extent services must be made available, state and local governments will not bear the cost. This is especially important in view of the fact that the legalized aliens will be ineligible for federal benefits.

We firmly believe that the federal government - not the taxpayers in the states and localities - should bear financial responsibility for the costs of the legalization program. It is the federal government which is responsible for national immigration policies - including controlling our borders against illegal immigration and it is the federal government which should bear the additional costs resulting from its policy changes.

It is critical that this federal financial liability not be unduly shifted to states and localities, and we urge that you support the retention of this reimbursement provision in the immigration bill.

Sincerely,

Bob Graham

Governor Bob Graham
Chairman
Task Force on Immigration and
Refugee Issues

Richard D Lamm

Governor Richard D. Lamm
Chairman
Committee on Human Resources

September 11, 1984

TO MEMBERS OF THE SENATE AND HOUSE CONFERENCE ON IMMIGRATION BILL:

We are writing to request your support in conference for retaining the reimbursement provision of state and local costs for assistance to newly legalized aliens in the House bill. (Section 304 of Immigration Reform and Control Act, H.R. 1510.) It is clear that the legalization provision will increase the demand and eligibility for government services, provided by state and local governments. While there is agreement that the costs of these services may be substantial, it is impossible to accurately estimate their amount or distribution among the states without actual experience with the legalization process itself.

Both the Senate and House bills appropriately recognize these additional state and local costs as a federal responsibility. However, the Senate bill would provide limited reimbursement through a special block grant while the House bill authorizes federal reimbursement for the actual costs of the necessary additional services. These House provisions are not a new entitlement and Congress will remain able to review the actual costs on an annual basis. The House bill provides the necessary authorization for full reimbursement, but Congress must determine the appropriate level of funding through the annual appropriation process. Moreover, the reimbursement authorization is time limited and will expire at the end of four years.

The House bill assures the careful identification of actual increases in costs and will assure that states are fully accountable for the funds provided. Such a close tie to actual expenses is not present in the Senate block grant provision. Moreover, the block grant provision provides a vehicle to arbitrarily cap federal expenses and to force states and local communities to expend their own funds on unavoidable costs for services they must provide.

In 1982 and 1983, forty-four states were forced to raise taxes and forty-three states initiated cost cutting measures due to reduction in revenues. Although the current recovery has been stronger than anticipated, state balances remain far below levels which most financial analysts recommend. As a result, state resources currently available to serve our existing needy populations are already strained making it difficult, if not impossible, to provide services to the potentially large, additional population envisioned in this legislation.

We firmly believe that the federal government, not the states and localities, should bear financial responsibility for the costs of the legalization program. It is the federal government which is responsible for national immigration policies including controlling our borders against illegal immigration, and it is the federal government which should bear the additional costs resulting from its policy changes. While the states recognize the need to work with the federal government to minimize these costs we also recognize that there is some basic level of services which must be provided to all persons legally within the United States. Failure to adopt a reimbursement provision will only serve to shift the additional costs of minimum services to a newly legalized group of aliens to the taxpayers in the states and localities.

We urge that you support the retention of this reimbursement provision in the immigration bill in the conference.

Sincerely,

Colorado
State

Washington
State

Tom Kean	New Jersey State
Joseph Garrahy	Rhode ISLAND State
George R. Ariyoshi	Hawaii State
Ted Schwinden	Montana State
Richard W. Riley	South Carolina State
Charles S. Robb	VIRGINIA State
Bill Clinton	Arkansas State
George Nigh	Oklahoma State
John Carlin	KANSAS State
Lamar Alexander	Tennessee State
James R. Thompson	Illinois State
Bob Graham	Florida State
Bob Kerrey	Nebraska State

Harry Hughes — Maryland
State

Massachusetts
State

Anthony S. Earl — WISCONSIN
State

Rudy Perpich — Minnesota
State

William A. O'Neill — Connecticut
State

October 9, 1984

TO MEMBERS OF SENATE AND HOUSE CONFERENCE ON THE IMMIGRATION BILL:

It is our understanding that a compromise provision has been proposed which would arbitrarily cap the federal reimbursement for state and local costs for assisting legalized aliens at $4 billion for 4 years. The National Governors' Association strongly opposes the inclusion of this provision in the conference report.

We firmly believe that the federal government, not the states and localities, should bear financial responsibility for the costs of the legalization program. Failure to adopt a fair reimbursement provision in this bill will only serve to shift the additional costs of minimum services to legalized aliens to the taxpayers in the states and localities.

We urge that Congress find ways to adequately address this federal responsibility.

Sincerely,

Raymond C. Scheppach
Raymond C. Scheppach

October 17, 1984

STATUS REPORT ON IMMIGRATION REFORM AND CONTROL ACT

STATUS

The Senate and House Conference on Immigration Bill met almost daily between September 13 and October 9 to resolve major differences between the Senate and House bill. The Committee had reached compromises on most of the provisions but deadlocked over the issue of inclusion in the statute of a limit on federal reimbursement for state-and local costs for assisting legalized aliens. The Conference Committee adjourned on October 9 without agreement and the 98th Congress ended on October 12 without considering final action on the bill. As a result, the immigration bill is dead this year. However, in view of the strong interest in immigration reform, re-introduction of immigration reform legislation in the next Congress is very likely.

The following is a summary of the major compromises reached by the conferees as well as a brief discussion of issues of special interest to states. We expect many of these same issues to arise again next year.

MAJOR PROVISIONS

- Employer Sanction

  Any employers knowingly hiring illegal aliens will be subject to civil fines. Criminal penalties apply only to those employers who are involved in "pattern of practices" violations. Employers with less than three employees will also be subject to employer sanctions but exempted from paperwork requirements. In addition, a demonstration project will be conducted for three years to test a telephone verification system for verifying the potential employee's social security number.

- Asylum and Exclusion

  An immigration judge system and a United State Immigration Board will be established to handle all asylum and exclusion procedures within the jurisdiction of Department of Justice. In addition, a more streamlined and expedited process for asylum and exclusion was adopted.

- Legal Immigration

  The existing legal immigration preference system was retained. No ceiling on annual legal immigration numbers was established.

- State Legalization Impact-Assistance Grants

  The conferees initially had agreed to a provision in conference report language which would have recommended that the federal reimbursement to state and local costs for assisting legalized aliens be capped at $1 billion-a-year for 4 years. A final decision, however, would be made during the annual appropriations process. The Administration then insisted on writing this cost limit into the statute. House conferees rejected this proposal and conference committee adjourned without a final conference report.

  This original proposed provision was, in essence, the Senate block grant language deleting reference of the word "block". Under this capped $1 billion-a-year grants to states, funding level is still subject to annual appropriation process.

  Funding available under the proposed cap would first be used to reimburse the federal share of the costs for assisting SSI recipients, pregnant women and children under 18 first. The remaining fund would then be allocated to states and localities based on: (1) number of eligible legalized aliens in the state; (2) ratio of eligible legalized aliens to general population in state and to eligible legalized aliens in all states; and (3) amount of public assistance program costs the state was likely to incur for assisting eligible legalized aliens. As the federal share of costs increased in the third and fourth years, available funding for reimbursing state and local costs including educational costs would decrease.

The compromise provision discussed in the conference would arbitrarily cap the federal reimbursement for state and local costs. NGA strongly opposes this cap and will work to see that it is not included. NGA will continue to work on urging the Congress to find ways to adequately and fairly address the federal responsibility for bearing the costs of the legalization program.

The Honorable Alan K. Simpson
Chairman, Committee on the Judiciary
709 Senate Hart Office Building
Washington, D.C. 20510

December 13, 1984

Dear Mr. Chairman:

Thank you very much for your letter responding to our concerns about the additional costs states may face if an immigration legalization program is enacted.

While your frustration concerning the inability of the Congress to reach agreement on immigration reform is understandable and well justified, your attack on the state and local position on reimbursement is not.

The nation's governors recognize the need for immigration reform. At the same time they recognize, as do you, that legalization will result in additional costs to government at all levels. We have worked with you and with Chairman Mazzoli over the past three years to attempt to find a workable solution to deal with this issue. It is unfortunate that the conference committee deadlocked over the issue of a cap on federal assistance for these costs, particularly when the appropriations process provided an opportunity to establish appropriate federal contributions on an annual basis.

One of the problems in addressing the reimbursement issue is in arriving at a reasonable estimate of the actual costs which will be experienced. HHS for example estimates a five year cost of $6.7 billion, well above the proposed appropriation level. Even the most conservative estimate, however, suggests that additional state and local costs alone will exceed $1 billion by the fourth year. (Since federal costs were also to be funded from the cap it appears more than likely that federal reimbursement for state and local costs would have fallen short of actual costs.)

Because of the difficulty of estimating the actual costs, the states had proposed that the federal program be based on the reimbursement of actual costs. This would have assured that funds would be available if needed, but also that they did not exceed true expenditures. While an adequately funded block grant would have provided an alternative, a block grant with an arbitrary cap provided insufficient protection for state and local taxpayers.

Your letter raises several specific points which will need to be addressed over the next several months. First, you imply that the states are unwilling to bear any costs of legalization. In fact, the most generous reimbursement provision would have covered only a very limited number of governmental services. States and localities would still have borne the full responsibility for a vast range of general governmental services from police protection, to transportation, to recreation. Equally to the point, state and local governments have borne these costs for years as well as other costs in the public health and emergency assistance area that are the direct result of the failure of the federal government to enforce its own immigration policies.

What the states sought was reimbursement for the additional costs which would result from legalization, particularly those costs that would result from federal decisions concerning eligibility for federal benefit programs. Illegal aliens are not now eligible for such services and/or are discouraged from using them due to a fear of discovery and eventual deportation.

Moreover, the states did not seek permanent protection from these additional costs. Instead, we asked for reimbursement during some transition period. Such an approach recognizes that legalized aliens will become an increasingly productive component of our populations and the fact that the longer term costs should be borne by both levels of government.

The second issue related to the degree to which state and local costs of services to aliens will be, or are, offset by the taxes which are paid by such aliens. Here the available data is even more sketchy than in relation to cost estimates themselves. However, the few studies that have been done should serve to dispel this growing myth. Generally, the newly legalized aliens are expected to have incomes well below the average wage level in any given state. They are also apt to have larger size families and, as a result make a more intensive use of more expensive services such as education, than the average non-alien family. The result is that the cost of services used is apt to well exceed taxes paid. In California, the deficit has been estimated by the Urban Institute to be more than $2,000 per immigrant family per year. These deficits exist even when many aliens are barred from the use of services such as unemployment insurance and welfare.

While we are fully prepared to work with the Congress to perfect our joint understanding of costs and revenues, it should be clear that legalization provides no sudden tax windfall to any level of government. So long as the vast majority of legalized aliens are employed in lower wage jobs, their consumption of services will, as for all lower income American, well exceed their contribution to tax revenues.

Finally, as noted above we sought protection against the additional costs of legalization. Nothing in either the Senate or the House bill would have provided for reimbursement of current costs or for shifting such costs to the federal government. The impact of a block grant or reimbursement on current state and local costs would be almost non-existent. It is therefore misleading to suggest that the delay of legalization has somehow resulted in the loss of federal aid which could have offset such current costs.

We are prepared to work with you and Chairman Mazzoli to once again address this issue and the concerns which you raise. We recognize and appreciate the time and effort that you have devoted to this issue and we think that we are jointly making progress in our understanding of the nature and dimensions of the problem. It is a fact, however, that we do not believe that we have gone far enough. We believe that Congress must recognize and provide for the additional costs of legalization. This is particularly true during the early years of a transition process. The states are seeking neither a windfall nor to shift costs to the federal government. We are seeking only to avoid a further incursion on already hard pressed state and local resources.

I hope that this has helped clarify our position and to respond to some of the concerns raised in your letter. I too look forward to continuing to work with you and your staff on this important and complex problem.

Sincerely,

Raymond C. Scheppach
Executive Director

STATEMENT OF D. ROBERT GRAHAM, GOVERNOR OF FLORIDA, CHAIRMAN NGA TASK FORCE ON IMMIGRATION AND REFUGEE ISSUES

June 18, 1985

Senator Simpson, Members of the Subcommittee, I am pleased to be here today representing Governor Bob Graham, Chairman of the NGA Task Force on Immigration and Refugee Issues. I will be addressing some of the concerns you have in your efforts to improve our nation's immigration policy.

Let me first begin by commending you for the difficult work you have done in immigration reform. We appreciate your efforts and are committed to working with you once again.

The nation's Governors recognize the need for immigration reform and as chairman of NGA Task Force, Governor Graham has worked very closely with you and Congressman Mazzoli over the past three years to seek a workable solution.

The Governors adopted policy positions in 1982 addressing some of the concerns that they have in the development of a national immigration policy. Their positions stress:

1. Sufficient funding should be provided to INS and other appropriate agencies to enforce the immigration law;

2. Employment of illegal immigrants should be prohibited, and the federal government should develop enforcement mechanism that will minimize the administrative burdens on employers and do not discriminate against the employment of minority workers;

3. If legalization is granted to illegal immigrants, the federal government must provide full reimbursement to state and local governments for all costs caused by the legalized program;

4. Initiation of any legalization program should be delayed until the Attorney General of the United States can certify to Congress that effective measures to reduce illegal immigration substantially have been implemented;

5. Trade and investment policy is a crucial element in reducing undocumented immigrantion;

6. The President needs emergency authority to deal effectively with any unexpected arrival in the United States of large numbers of people seeking asylum;

7. A workable contingency plan should be in place addressing an immigration emergency, and the federal government should consult with affected states on the elements of this plan; and

8. The exclusion and asylum process should be revised to provide for a fair and expeditious review of asylum claims.

The Immigration Reform and Control Act of 1985 (S. 1200) introduced by you on May 23 is a positive step towards developing workable immigration reform. Some of the provisions in your bill regarding employer sanctions, increase resources to INS enforcement activities, and the delay of legalization until effective measures to reduce illegal immigration substantially have been implemented are issues that Governor Graham has discussed with you in the past, and he is pleased that you have addressed them in your bill.

The immigration reform bill could be further strengthened if provisions regarding presidential emergency authority, contingency planning, and fair and expeditious asylum and exclusion procedures also are included. Most importantly, The nation's Governors still are concerned over the reimbursement provision.

The Governors believe strongly that national immigration policies are a federal responsibility and that financial liability for costs of any legalization program should be borne by the federal government as a part of National — not local or state — responsibility. We believe that full reimbursement is the preferred method, and we will continue to work with you and members of your Subcommittee in an attempt to reach a satisfactory solution to the reimbursement issue. Nevertheless, we are pleased that your bill this year has made a number of improvements in recognizing and addressing some of our states' financial concerns. For example, the state legalization impact assistance grant in your bill does recognize federal responsibility by targeting available funding primarily for reimbursing state and local costs for assisting legalized aliens. In addition, the provision allowing unspent fund in a given fiscal year to be used in the next year recognizes the difficulty states could have in addressing unexpected numbers of applicants. However, we are still concerned that the cap imposed in the bill may not fully address the reimbursement issue.

One of the problems in addressing the reimbursement issue is establishing actual cost figures. The Congressional Budget Office (CBO) has acknowledged this difficulty in its most recent cost estimate published in Februry, 1985. CBO admitted that their estimates are very "uncertain", and because of these uncertainties, actual costs of the alternative cost estimates could be - and I quote - "well above or below CBO's estimates". This dilemma is evident in the wide range of estimates being discussed during the past three years, ranging from the Office of Management and Budget (OMB) figure of $3.9 billion to Department of Health and Human Services' (HHS) $6.7 billion.

The CBO estimates reinforce our concern over a limit on the federal financial commitment based on national aggregate estimates. Such estimates do not take into account of the uneven distribution of the illegal population and the different public assistance programs among the states. As a result, they may not be able to fully assess the actual costs.

While we have emphasized the importance of state-by-state estimates, the Congressional Budget Office has not been able to provide such estimates, and the states themselves have been hampered by the wide. range of alternative approaches under consideration.

Because of the difficulty of estimating the acutal costs, the state had proposed that the federal program be based on the reimburement of actual costs. This would have assured that funds would be available if needed, but also that they did not exceed true expenditures. We do not believe an arbitray cap could provide sufficient protection for state and local taxpayers.

In addition, the state impact assistance grant proposed in your bill would provide federal assistance to state and local costs for only three years, while legalized aliens would be ineligible for any of the federal public assistance programs for six years. A careful review of the CBO estimates reveals that most of the state and local costs resulting from legalization might, therefore, not be eligible for federal assistance. Those estimates show that state and local costs would be lower in the first three years and increase to much higher degree in the fourth and future years, at a time when federal reimbursement would stop altogether. We are concerned that states may be faced with unfair and unexpected share of the future burden.

The states appreciate your attempt to assist them in developing state statutes that would limit public aid for legalized aliens. The provisions may be of some assistance that an alien in temporary lawful residence status shall not be considered, to be permanetly residing in the United States under color of law for the purpose of state and local welfare assistance determination. However, we do not yet know if this provision would, in fact, be effective since federal courts have in many occasions required the states to provide assistance to aliens. In some cases that assistance has been mandated under state constitutions.

The substantial number of eligibility issues already in litigation make us uncertain as to how the courts eventually will interpret this provision. While states undoubtly will attempt to use the authority provided, we do not believe that limits on reimbursement should be based on the assumption that states will be completely successful in application of that authority.

The Governors recognize, as do you that legalization will result in additional costs to government at all levels, and finding a workable solution is not a easy task. We strongly believe that difficulty in addressing the reimburesement issue should not be construed as state refusal to bear and share any costs of legalization programs. In fact, the most generous reimbursement provision would have covered only a very limited number of governmental services. States and localities would still have borne the full responsibility for a vast range of general governmental services from police protection to transportation, to receation. Equally to the point, state and local governments have borne these and other costs for years as a direct result of the failure of the federal government to enforce its own immigration policies.

What the states seek is reimburseemnt for the additional costs which would result from legalization, particularly those costs that would result from federal decisions concerning eligibility for federal benefit programs. Illegal aliens are not now eligible for such services and are discouraged from using what few services are available to them for fear of discovery and eventual deportation.

The states do not seek permanent protection from these additional costs. Instead, we ask for reimbursement during some transition period. Such an approach recognize that legalized aliens will become an increasingly productive component of our population and the fact that the longer term costs should be borne by both levels of governemnt.

The Governors also are concerned with the assertion that state and local costs of services to aliens can be, or are offset by the taxes which are paid by such aliens. Available data on this issue are even more sketchy than any relating to cost estimates themselves. However, the few studies that have been done should serve to dispel this growing myth.

Generally, the newly legalized aliens are expected to have income well below the average wage level in any given state. They are also apt to have larger size families and, as a result, make more intensive use of more expensive services, such as education, than the average non-alien family. The cost of services used, therefore, almost surely will exceed taxes paid. In California, the deficit has been estimated by the Urban Institute to be more than $2,000 per immigrant family per year. These deficits exist even when many aliens are barred from the use of services such as unemployment insurance and welfare assistance.

While we are fully prepared to work with the Congress to perfect our joint understanding of costs and revenues, it should be clear that legalization provides no sudden tax windfall to any level of government. So long as the vast majority of legalized aliens are employed in lower-wage jobs, as it does for all lower-income Americans, their consumption of services will well exceed their contribution to tax revenues.

The Governors are prepared to work with you once again to address the reimbursement issues. We recognize and appreciate the time and effort that you have devoted to these issues, and we believe progress is being made in understanding the nature and dimension of the problems. We believe that Congress must recognize and provide for the additional costs of legalization. This is particulary true during the early years of a transition process. The states are seeking neither a windfall nor a shift of legitimate state costs to the federal government. We are seeking only to avoid a further incursion on already hard pressed state and local resources.

The Governors appreciate the care which this committee has approached this complex issue. You have worked to address many of our concerns, and I hope that today I have been able to clarify the Governors' position on these issues we believe require further consideration by your Committee. I look forward to continuing to work with you and members of your Subcommittee in finding a workable solution to resolve our nation's immigration and refugee problems.

September 30, 1985

Chairman Mazzoli, members of the subcommittee, I am pleased to be here today as chairman of the NGA Task Force on Immigration and Refugee Issues to address some of the concerns you have in your efforts to improve our nation's immigration policy.

Let me commend you for the difficult work you have done in immigration reform. We appreciate your efforts and are committed to working with you once again.

The nation's Governors recognize the need for immigration reform. As chairman of the NGA Task Force, I have worked very closely with you over the past three years to seek a workable solution.

The Governors adopted policy positions in 1982 addressing some of the concerns they have in the development of a national immigration policy. Their positions stress:

1. Sufficient funding should be provided to Immigration and Naturalization Service (INS) and other appropriate agencies to enforce the immigration law;

2. Employment of illegal immigrants should be prohibited, and the federal government should develop enforcement mechanisms that will minimize the administrative burdens on employers and not discriminate against the employment of minority workers;

3. If legalization is granted to illegal immigrants, the federal government must provide full reimbursement to state and local governments for all costs caused by the legalization program;

4. Initiation of any legalization program should be delayed until the attorney general of the United States can certify to Congress that effective measures to reduce illegal immigration substantially have been implemented;

5. Trade and investment policy is a crucial element in reducing undocumented immigration;

6. The president needs emergency authority to deal effectively with any unexpected arrival in the United States of large numbers of people seeking asylum;

7. A workable contingency plan should be in place to address an immigration emergency, and the federal government should consult with affected states on the elements of this plan; and

8. The exclusion and asylum process should be revised to provide for a fair and expeditious review of asylum claims.

The Immigration Control and Legalization Amendments Act of 1985 (H.R.3080) introduced by you and Chairman Rodino on July 25 is a positive step toward developing workable immigration reform. Provisions in your bill regarding increased resources for INS enforcement activities and the development of immigration emergency contingency plans are issues that I have discussed with you in the past, and we are pleased that you have addressed them in your bill.

The immigration reform bill could be further strengthened if provisions regarding reimbursement for state and local costs associated with the legalization program, prison costs for incarcerating illegal aliens, presidential emergency authority, and fair and expeditious asylum and exclusion procedures were also included. Most importantly, the nation's Governors still are concerned about the reimbursement provision.

The Governors believe strongly that national immigration policies are a federal responsibility and that financial liability for costs of any legalization program should be borne by the federal government as a part of national -- not state or local -- responsibility. We believe that full reimbursement is the preferred method, and we will continue to work with you and members of your subcommittee in an attempt to reach a satisfactory solution to the reimbursement issue. We are very concerned that the current version of the bill does not include 100 percent full reimbursement of state and local costs for assisting legalized aliens during the transitional period.

One of the problems in addressing the reimbursement issue is establishing actual cost figures. In its most recent estimate of state and local costs

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published in February 1985 the Congressional Budget Office (CBO) acknowledged this difficulty. CBO admitted that it's estimates are very "uncertain," and because of these uncertainties, actual costs could be "well above or below increased resources for INS enforcement activities and the development of immigration emergency contingency plans are issues that I have discussed with you in the past, and we are pleased that you have addressed them in your bill.

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One of the problems in addressing the reimbursement issue is establishing actual cost figures. In its most recent estimate of state and local costs published in February 1985 the Congressional Budget Office (CBO) acknowledged this difficulty. CBO admitted that it's estimates are very "uncertain," and because of these uncertainties, actual costs could be "well above or below CBO's estimates." This dilemma is evident in the wide range of four-year estimates of state and local legalization costs. These range from the Office of Management and Budget (OMB) figure of $3.9 billion to Department of Health and Human Services' (HHS) $6.7 billion.

The CBO estimates reinforce our concern over limiting the federal financial commitment based on national aggregate estimates. Such estimates do not take into account the uneven distribution of the illegal population and the different public assistance programs among the states. As a result, they may not be able to fully assess the actual costs.

While we have emphasized the importance of state-by-state estimates, the Congressional Budget Office has not been able to provide such estimates, and the states themselves have been hampered by the wide range of alternative approaches under consideration.

Because of the difficulty in estimating costs, the states had proposed that the federal program be based on the reimbursement of actual costs. This would have assured that funds would be available if needed, but would also assure that they not exceed true expenditures. We do not believe an arbitrary cap could provide sufficient protection for state and local taxpayers.

In addition, your bill restricts the state impact assistance grants to cover only those aliens granted permanent resident status. This restriction would mean that states and localities would not be reimbursed for costs incurred for assisting those aliens granted temporary resident status. Based on the CBO estimate, states would have to absorb at least $200 million in public assistance costs in 1988 and 1989 under the legalization provisions of H.R. 3080.

We recognize that your bill has a provision to allow the states and localities to make legalized aliens ineligible for state and local public assistance programs. However, as stated in an article by Carolyn Weyer in the North Carolina Journal of International Law, "Unequal Protection: Public Benefits, Public Policy and Aliens," the Supreme Court tends to allow Congress to limit benefits to discourage immigration but finds unconstitutional "state laws that restrict the eligibility of aliens from welfare benefits merely because of their alienage" (Graham v. Richardson, 1971 and Sailer v. Leger, [illegible]). Therefore, it [illegible] be difficult for states to enact laws similar to federal legislation which would exclude those seeking legalization from state public assistance.

We urge that your committee provide appropriate remedies to give states and localities some protection by extending the state impact assistance grant eligibility to cover those aliens who are given temporary resident status.

The Governors recognize, as you do, that legalization will result in additional costs to government at all levels. Finding a workable solution is not an easy task. We strongly believe that difficulty in addressing the reimbursement issue should not be construed as state refusal to bear and share any costs of legalization programs. In fact, the most generous reimbursement provision would have covered only a very limited number of governmental services. States and localities would still bear the full responsibility for a vast range of general governmental services such as police protection to transportation, and recreation. As a direct result of the failure of the federal government to enforce its own immigration policies, state and local governments have borne these and other costs for many years.

What the states seek is reimbursement for the additional costs which would result from legalization, particularly those costs resulting from federal decisions affecting eligibility for federal benefit programs. Illegal aliens are now largely ineligible for such services and are reluctant to use what few services are available to them for fear of discovery and eventual deportation.

The states do not seek permanent protection from these additional costs. Instead, we ask for reimbursement during the transition period. Such an approach recognizes that legalized aliens will become an increasingly productive component of our population and that the longer term costs should be borne by all levels of government.

The Governors are also concerned by the assertion that state and local costs of services to aliens can be, or are, offset by the taxes which are paid by such aliens. Available data on this issue are even more sketchy than any relating to cost estimates themselves. The few studies that have been done should serve to dispel this growing and erroneous myth.

We expect that most newly legalized aliens will have income well below the average wage level in any given state. They are also apt to have larger families and, therefore, will make more intensive use of expensive services, such as education, than the average non-alien family. The cost of services used, will almost surely exceed taxes paid. In California, for example, the Urban Institute has estimated the deficit to be more than $2,000 per immigrant family per year. These deficits exist even when many aliens are barred from the use of services such as unemployment insurance and welfare assistance.

While we are fully prepared to work with the Congress to perfect our joint understanding of costs and revenues, it should be clear that legalization provides no sudden tax windfall to any level of government. So long as the vast majority of legalized aliens are employed in lower-wage jobs, their consumption of services will, well exceed their contribution to tax revenues, as it does for all lower-income Americans.

The Governors are prepared to work with you once again to address the reimbursement issues. We recognize and appreciate the time and effort that you have devoted to these issues, and we believe progress is being made in understanding the nature and dimension of the problems. We believe that Congress must recognize and provide for the additional costs of legalization. This is particularly true during the early years of the transition process. The states are seeking neither a windfall nor a shift of legitimate state costs to the federal government. We are seeking only to avoid a further burden on already hard-pressed state and local resources.

The Governors appreciate the care with which this committee has approached this complex issue. You have worked to address many of our concerns, and I hope that today I have been able to clarify the Governors' position on those issues which we, believe, require further consideration by your committee. I look forward to continuing to work with you and members of your Subcommittee in finding a workable solution to resolve our nation's immigration and refugee problems.

LETTER FROM GOVERNOR BOB GRAHAM

Honorable Alan Simpson
United States Senator
261 Dirksen Senate Office Building
Washington, D.C. 20510

October 10, 1986

Dear Senator Simpson:

Your tireless work to secure a humane and pragmatic system for dealing with immigration has brought us to the threshold of long overdue reform. Yesterday the House passed the Immigration Control and Legalization Amendments Act of 1986. Throughout the prolonged debate, I have been a strong proponent of fair and comprehensive immigration reform. Today, the Senate-House conference will be asked to reconcile the differences between the two versions. Some issues you will address are of great significance to the states and localities.

I hope adoption of a new immigration bill will ensure that state and local governments do not bear mandated costs over which we have no control. It is essential that Congress recognize and provide for the additional costs of legalization through authorization of 100 percent federal reimbursement of expenses incurred by state and local governments in assisting illegal aliens who would be granted legal status.

The states are seeking neither a windfall nor a shift of legitimate state costs to the federal government. As a governor, I seek only to avoid a further burden on Florida's already hard-pressed state and local taxpayers.

In addition, the expeditious deportation of illegal aliens convicted of drug trafficking is an important weapon in our war against drugs. The MacKay Amendments, adopted yesterday by the House, would also require the transfer of drug-convicted aliens from state and local jails to federal facilities and would further identify federal military facilities where aliens convicted of drug trafficking could be housed while awaiting deportation, thereby avoiding federal prison overcrowding. I urge you to support all three MacKay Amendments. The problem of illegal aliens and drug trafficking has a major impact on Florida and the nation.

In Florida, there are 542 deportable aliens convicted of drug offenses in our state prison system. Dade County, the most heavily impacted community in Florida, has 27 percent of its prison population or 300 aliens incarcerated for drug offenses.

The Attorney General has reported that over 50 percent of all arrestees now selling "Crack" in Southern California are illegal aliens and 63 percent of narcotics arrests are illegal aliens. The GAO has reported that in New York, aliens involved in deportation cases by INS/New York continued to be arrested and convicted for crimes after INS had identified them as potentially deportable. Seventy-seven percent were arrested at least once more, and 11 percent were arrested five or more times.

These aliens are choking our prisons and in too many instances after completing their sentences are released back into our communities without action by INS to deport them. Rather than being removed from our country as called for by federal immigration law, many commit additional crimes, further endangering our citizens and crowding our prisons.

Even with the retention of the MacKay Amendments, it is still important to retain the provision which authorizes reimbursement for those remaining criminal aliens in state and local jails. These felons contribute to overcrowding and their incarceration is a financial burden for states and communities which they had no right to enter in the first place.

For these reasons, I am urging you to support the House provisions for federal reimbursement and all three MacKay Amendments to the immigration bill in conference. The issues at stake are vitally important to all of us and should be part of an effective reform of immigration law.

Thank you for your consideration and assistance.

With warm regards,

Sincerely,

Bob Graham

Governor

LETTER FROM GOVERNOR WILLIAM P. CLEMENTS, JR.

March 3, 1987

The Honorable James Wright
U.S. House of Representatives
1236 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Wright:

We are aware and greatly appreciative of your efforts during the last Congress to minimize the fiscal impact of the new immigration law, particularly in light of Texas' shrinking revenues. Therefore, we are writing to call your attention to a provision of the new law that will restrict reimbursement to state and local governments for the costs of providing services to legalized aliens.

As you know, during conference negotiations, a compromise was reached on state reimbursement, under which the State Impact-Assistance Grants (SLIAG) were capped at $1 billion per year for four years. Though the House version of the bill had envisioned 100 percent of reimbursement of state and local costs, this compromise was understood to be necessary due to the President's concern that the costs of the legislation be constrained.

In the last moments of the conference, however, a further compromise was reached under which state reimbursement will be reduced well below the $1 billion per year originally agreed upon by all negotiating parties. This provision, known as the federal "offset," allows the federal government to pay its own costs for providing certain benefits to legalized aliens out of the State Impact-Assistance Grants appropriation. Only after the federal costs of Supplemental Security Income (SSI), Medicaid, and Food Stamps are paid will the states receive any funding from the appropriated $1 billion.

Although this federal offset is statutorily limited to $70 million in the first year (FY 1988), the federal share of each year's $1 billion will increase dramatically as more people achieve legal status and overcome the fear of authorities that has made them hesitant, as illegal residents, to come forward for services. The Congressional Budget Office (CBO) estimates that the federal "offset" will approach $500 million by FY 1991. As a result, Texas' impact-assistance grant may ultimately be half of the amount anticipated.

Obviously, no one can yet gauge the full impact of immigration reform on state and local governments; however, the State Legalization Impact-Assistance Grants were to provide a modicum of fiscal security during Texas' worst financial crisis. Consequently, we urge you to eliminate the federal offset from the State Impact-Assistance Grants, by providing that the federal costs for these entitlement programs be paid out of their regular appropriations. This will ensure that the full $4 billion appropriation will remain available to the states.

Thank you again for your support of Texas' interests in this matter. We look forward to working with you on this and other issues of concern to Texas as the 100th Congress commences.

Sincerely,

W. P. Clements
William P. Clements, Jr.
Governor of Texas

WPHobby
William P. Hobby, Jr.
Lt. Governor of Texas

Gib Lewis
Gibson "Gib" Lewis
Speaker of the House

LETTER FROM GOVERNOR GEORGE DEUKMEJIAN

President George Bush
The White House
Washington, D.C. 20500

November 13, 1989

Dear Mr. President:

As governors of the states which would lose the most from any further cuts in the federal State Legalization Impact Assistance Grant (SLIAG) funds, we are writing to express our strong opposition to any proposed reductions in the program which might be included in your FY 91 budget submission to Congress.

Each of our states anticipate utilizing the full level of SLIAG funding Congress and President Reagan promised for the years 1988-91. We need full SLIAG funding to provide high quality, effective services so that newly legalized persons can quickly become fully participating members of American society.

Sadly this original promise has been violated. In the FY 90 appropriations bill, Congress cut the program's funding by $555 million. Unfortunately, your administration had also originally proposed reductions to SLIAG funds in the FY 90 budget. We believe these cuts were predicated on the belief that the states do not need the funds. The facts are that SLIAG expenditures were predicted to be low during the first few years and unspent funds would remain available for the anticipated high expenditure years of FY 91 - FY 94. We are now completing the lower expenditure period of this program, and with state programs in place and legalized persons availing themselves of SLIAG services, we need the promised federal funding. To do otherwise would represent a major retreat by the Federal government from its obligation to the states.

California, Texas, Florida, and Illinois have had more applicants than any other state and therefore receive 83 percent of SLIAG funds. We are committed to providing these newly legalized persons a smooth transition as they move toward United States citizenship. Without the federal funds to aid us in our efforts, we are unable to carry out this mandate.

We recognize and appreciate your longstanding commitment to the states and the significant role they play in the federalism partnership. We urge you to support the full one billion dollar appropriation for FY 91 promised us under the Immigration Reform and Control Act of 1986.

Most Cordially,

George Deukmejian
Governor George Deukmejian
State of California

B.P. Clements
Governor William P. Clements, Jr.
State of Texas

Bob Martinez
Governor Bob Martinez
State of Florida

James R. Thompson
Governor James R. Thompson
State of Illinois

LETTERS FROM SENATOR BOB GRAHAM

The Honorable William H. Natcher
House of Representatives
Washington, D.C. 20515

November 17, 1989

Dear Mr. Chairman:

As you consider Senate amendments to H.R. 3566, the FY90 Labor, Health and Human Services, and Education Appropriations bill, we are writing to urge you to support the amendment which uses authorizing language to restore in fiscal year 1992 the amount taken from State Legalization Impact Assistance Grants (SLIAG) in fiscal year 1990.

In 1986, Congress enacted a sweeping revision of U.S. immigration laws that included the legalization of aliens who had continuously resided in the United States prior to January 1, 1982, and seasonal agricultural workers (SAW) who had worked 90 days in agriculture between May 1, 1985 and May 1, 1986. Recognizing the federal responsibility for costs associated with legalization, Congress established SLIAG to reimburse states and local governments for public assistance, health services, and educational services provided to this newly legalized population. In FY88 and FY89, 42 states have been allocated $1.8 billion, as shown in the enclosed chart.

Section 204(a) of the Immigration Reform and Control Act of 1986 (IRCA) authorizes and appropriates $1 billion for SLIAG in each of the first four years of the program, FY88-FY91. While the appropriations were authorized only in these four years, states were given seven years to apply for reimbursements because of the clear expectation that the major impact of legalization would take place in the final years of the program, particularly in the areas of indigent health care and education. In recognition of this expectation, Congress specifically provided that SLIAG funds would carry forward at the end of each fiscal year and remain available through September 30, 1994. As anticipated in the authorizing statute (Public Law 99-603), the SLIAG program currently has a surplus at the end of only fifteen months of operation.

States have been slow to spend SLIAG funds due to federal administrative delays. The Department of Health and Human Services was slow in promulgating SLIAG regulations and in providing official guidance to the states. The Department of Justice was slow to issue regulations governing the permanent residency process. Details of administrative roadblocks to a timely spend-down of SLIAG funds are provided in the enclosed report by the American Public Welfare Association on the first year of the SLIAG program.

In summary, there is presently but only temporarily a surplus in SLIAG funds both by design and due to federal bureaucratic impediments. Also, when the federal government only looks at the actual amount of SLIAG funds disbursed to the states, it ignores SLIAG service liabilities that are accrued but not yet billed and paid. The states fully expect to spend all SLIAG funds by 1994 and have budgeted accordingly.

As you know, the conferees on H.R. 2990 agreed to transfer $555,244,000 from the FY90 appropriation for SLIAG to other programs and restore the same amount in FY92. While we were pleased with the restoration language, we are concerned that IRCA does not authorize appropriations in FY92. We believe that an underlying authorization for the FY92 restoration is necessary in order to ensure, to the maximum extent possible, that these funds are returned to the states.

For these reasons, we urge you to support the Senate amendment which preserves the integrity of the commitment made by the federal government to the states in 1986.

Sincerely,

Bob Graham
Bob Graham

Connie Mack
Connie Mack

Paul Simon
Paul Simon

Alan J Dixon
Alan J. Dixon

Alan Cranston
Alan Cranston

Bob Packwood
Bob Packwood

Richard H. Bryan

Alan K. Simpson

Pete Wilson
Pete Wilson

Dennis DeConcini
Dennis DeConcini

Timothy E. Wirth
Timothy E. Wirth

Daniel Patrick Moynihan

Lloyd Bentsen
Lloyd Bentsen

John McCain
John McCain

Phil Gramm

Edward M. Kennedy

The Honorable Jim Sasser
Chairman
Senate Budget Committee
United States Senate
Washington, D.C. 20510

March 13, 1990

Dear Mr. Chairman:

As members of the Senate Democratic Task Force on Hispanic Issues, we are writing to express our strong opposition to President Bush's proposed $1.1 billion cut in State Legalization Impact Assistance Grants (SLIAG) in FY91 and FY92.

In 1986, Congress enacted a sweeping revision of U.S. immigration laws, the Immigration Reform and Control Act (IRCA). A key provision of IRCA was an amnesty program for aliens who had continuously resided in the United States prior to January 1, 1982, and seasonal agricultural workers (SAW) who had worked 90 days in agriculture between May 1, 1985 and May 1, 1986.

Recognizing the federal responsibility for costs associated with the legalization program, Congress authorized SLIAG to reimburse states and local governments for public assistance, health services, and educational services provided to this newly legalized population. Statistics from the Immigration and

Naturalization Service indicate that 88% of amnesty applicants are Hispanic.

Section 204(a) of IRCA authorizes and appropriates $1 billion (minus a federal offset) for SLIAG in each of the first four years of the program, FY88-FY91. While appropriations were authorized only in these four years, states were given seven years to apply for reimbursements because of the clear expectation that the major impact of legalization would take place in the final years of the program. As a result, IRCA permits SLIAG funds to carry forward each year and remain available through September 30, 1994.

The present surplus in SLIAG funds is due to numerous federal bureaucratic impediments and, more importantly, the very design of the program. Consistent with the intent of the law, the states have accrued SLIAG service liabilities which have not yet been billed and paid. The states fully expect to spend all SLIAG funds by 1994, and have budgeted accordingly.

To cut SLIAG funds now in light of the commitment made to the states by the federal government in 1986 would be grossly unfair. We urge you to preserve the integrity of this commitment by rejecting the President's proposed cuts in SLIAG.

Sincerely,

Bob Graham
Bob Graham

Jeff Bingaman
Jeff Bingaman, Chairman

Chris Dodd
Chris Dodd

Alan Cranston
Alan Cranston

Harry Reid

Lloyd Bentsen
Lloyd Bentsen

Paul Simon
Paul Simon

Timothy E. Wirth
Timothy E. Wirth

Daniel Patrick Moynihan

Dennis DeConcini
Dennis DeConcini

The Honorable Jim Sasser
Chairman
Senate Budget Committee
United States Senate
Washington, D.C. 20510

April 2, 1990

Dear Mr. Chairman:

We are writing to express our strong opposition to the Administration's proposed $1.1 billion cut in State Legalization Impact Assistance Grants (SLIAG) in FY91 and FY92.

In 1986, Congress enacted a sweeping revision of U.S. immigration laws, the Immigration Reform and Control Act (IRCA). A key provision of IRCA was an amnesty program for aliens who had continuously resided in the United States prior to January 1, 1982, and seasonal agricultural workers (SAW) who had worked 90 days in agriculture between May 1, 1985 and May 1, 1986.

Recognizing the federal responsibility for costs associated with the legalization program, Congress authorized SLIAG to reimburse states and local governments for public assistance, health services, and educational services provided to this newly legalized population.

Section 204(a) of IRCA authorizes and appropriates $1 billion (minus a federal offset) for SLIAG in each of the first four years of the program, FY88-FY91. While appropriations were authorized only in these four years, the law explicitly provides states seven years in which to apply for reimbursements because of the clear expectation that the major impact of legalization would take place in the final years of the program. As a result, IRCA permits SLIAG funds to carry forward each year and remain available through September 30, 1994.

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Paul Simon
Paul Simon

Dennis DeConcini
Dennis DeConcini

Alfonse D'Amato
Alfonse D'Amato

Jeff Bingaman
Jeff Bingaman

Alan J. Dixon
Alan J. Dixon

Richard H. Bryan
Richard H. Bryan

Harry M Reid
Harry Reid

Bob Packwood
Bob Packwood

Timothy E. Wirth
Timothy E. Wirth

Chris Dodd
Christopher Dodd

Slade Gorton

Brock Adams
Brock Adams

Daniel Patrick Moynihan

John McCain
John McCain

John F. Kerry

Al Simpson
Alan K. Simpson

REIMBURSEMENT ISSUE

Senator GRAHAM. To illustrate the importance of the reimbursement issue to the final compromise reached on IRCA, I would also like to submit for the record a National Journal article dated November 3, 1984, and an issue of Interpreter Releases, dated October 12, 1984. These two articles document the fact that the conference committee in the 98th Congress broke down primarily due to the inability to reach agreement on the issue of reimbursement to State and local governments for the cost of amnesty.

[The information follows:]

[FROM THE NATIONAL JOURNAL, NOV. 3, 1984]

Immigration Bill Knocked Out in Final Round, But Sponsors Promise Rematch

(By Maxwell Glen)

In one corner stood a coterie of congressional backers, numerous high-minded citizens and editorial writers.

In the other were some of the major constituency groups known to Washington: business and labor, Hispanic and civil liberties groups and state and local governments. Giving them encouragement from just outside the ring was Walter F. Mondale, the Democratic presidential nominee.

After almost three years of legislative sparring, the two sides had faced off for the main event: a House-Senate conference on the first comprehensive reform of U.S. immigration laws in a generation.

The two sides fought evenly at first, trading concessions on major differences between the Senate and House versions of a bill known by the names of its chief sponsors, Sen. Alan K. Simpson, R-Wyo., and Rep. Romano L. Mazzoli, D-Ky. The match went right to the last bell, as the 98th Congress struggled toward adjournment. But in the end, House-Senate conferees reached a stalemate over the federal government's share of the cost of providing social services to the 2 million-12 million illegal aliens that could be granted temporary or permanent residency under the bill. At the behest of President Reagan, the Senate argued that the federal costs should be no more than $1 billion per year. The House, though divided on how much to spend, believed that all costs were the federal government's responsibility.

Simpson-Mazzoli backers blamed the impasse chiefly on the House Democratic leadership. Had the bill received the expeditious treatment in the House that the Senate gave it, conferees might not have been forced to work in the frenzied closing days of the 98th Congress, they argued.

But opponents and some supporters of the measure agreed that a conference report would have been defeated in the House and possibly in the Senate, where at least two Members planned a filibuster. Many of the compromises, they said, had weakened or destroyed already tenuous agreements made with key special-interest groups. Even White House support had turned lukewarm.

Simpson, who before the conference talked of dropping his efforts for immigration reform should they fail this year, has promised to reintroduce his bill "as soon as I am able" in 1985. Reagan also pledged, during the Oct. 21 debate, "to do everything that I can . . . to get an immigration bill that will give us once again control of our borders."

Simpson and Mazzoli intended to continue the push for comprehensive reform, but leading opponents say that approach has been "discredited." And a chief supporter, Roger Conner, executive director of the Federation for American Immigration Reform, said, "This experience has taught us that if you try comprehensive reform, you enrage every single interest group in Washington."

Simpson warned that a piecemeal approach would lead first to passage of the portion of Simpson-Mazzoli considered anathema by many of his bill's adversaries: criminal sanctions against employers who knowingly hire illegal aliens. The

House twice passed, in 1972 and 1973, an employer sanctions bill; each time, the bill died in the Senate.

ROAD TO STALEMATE

That a House-Senate conference occurred on the Simpson-Mazzoli bill is a testament to the phoenix-like nature of the legislation.

The Senate passed the bill overwhelmingly in 1982 and 1983. The second vote came only five months after the bill, facing 300 amendments, was withdrawn from consideration on the House floor during the 1982 lame-duck session.

The House Judiciary Committee approved the bill for a second time in May 1983. But more than a year passed before it was submitted for floor consideration. The House Rules Committee delayed action for months pending resolution of often conflicting amendments to the bill that had been attached by three other committees to which it had been referred. In October 1983, House Speaker Thomas P. O'Neill Jr., D-Mass., put the bill on hold, reportedly at the behest of Hispanic House Members *(See NJ, 3/10/83, p. 463)*.

O'Neill ultimately gave in to criticism from members of both parties and cleared the measure for floor consideration after last June's primary in California, where growers and farm workers opposed the bill. On June 20, after seven days of debate during which 69 amendments were offered, the House narrowly passed the bill, 216--211. The House and Senate bills retained Simpson-Mazzoli's basic thrust-employer sanctions and amnesty for illegal aliens who have resided continuously in this country for at least several years_but there were 117 conflicts between the two versions.

Absent from the House bill were Senate-passed limits on the number of people who could legally immigrate to the United States each year and criminal penalties for hiring illegal aliens. Included in the House bill but not in the Senate's were a new temporary farm worker program and new legal remedies for discrimination on the basis of noncitizenship or "alienage."

The House also voted to delay, from 1980 to 1982, the cutoff date for determining eligibility under the bill's amnesty provisions; it placed the full cost of amnesty on the shoulders of the government (the Senate had made states eligible for reimbursement through block grants for the cost of welfare and medical benefits and other social services but did not guarantee 100 per cent recovery) and mandated that permanent residency status be linked to basic knowledge of civics and the English language.

Supporters of the bill said that the differences could be resolved in conference. But presidential politics undercut the momentum for a conference as Congress recessed for the Democratic National Convention in mid-July. In San Francisco, Mondale brandished his opposition to Simpson-Mazzoli in a pitch for Hispanic-American support, even though polls suggested that the majority of Hispanics supported the bill.

Mondale's denunciations of the package put one of his biggest supporters, the AFL-CIO, in a difficult position. With reservations, the federation had supported the legislation.

Meanwhile, the White House opposed the House bill and appeared ambivalent about the Senate version. On July 25, only six days after Mondale accepted the Democractic nomination, the White House said the House version of the bill was "unacceptable." Chief among the Administration's concerns was the lack of a cap on the federal reimbursement of state and local expenditures for aliens that would be legalized under the bill.

In a July 25 speech before the annual convention of La Raza, the nation's largest Hispanic organization, Vice President George Bush pledged that Reagan would "not sign any legislation that would permit employers to discriminate against Hispanics or anyone else." Yet Hispanic leaders had charged that the Senate bill, which Reagan supposedly supported, would lead to greater discrimination than the House version.

DEAD END

Simpson responded to the presidential candidates' concerns by delaying further action until after the Republican National Convention Dallas in August.

When the conference committee convened on Sept. 13, some observers doubted that it could reach agreement. With Simpson speaking for the Senate on most issues, the House side included representatives of four committees and Rep. Edward R. Roybal, D-Calif., chief sponsor of an alternative immigration measure supported by the House Hispanic Caucus. Of the 29 House Members, 10 were from California. Conferees could only vote on issues that came before committees of which they were members.

The two sides reached several major compromises in the first week. The House accepted Senate demands that employer sanctions carry criminal penalties and apply to all employers; the Senate agreed to postpone criminal penalties for the first two-and-a-half years after enactment. The conferees settled on a legalization schedule that kept the Senate's two-tiered structure for permanent and temporary residents but shortened the number of years illegal aliens had to have been in the country to become temporary residents.

Perhaps the most notable agreement came on the issue of guest worker programs that allow growers to hire nonresident aliens temporarily. Senate critics and organized labor had complained that the House proposal, sponsored by Reps. Leon E. Panetta, D-Calif., and Sid Morrison, R-Wash., at the urging of western growers who believed the existing rules did not allow them to hire sufficient workers, would create an "open-ended" program.

After a month of negotiations, the conferees abandoned the original Panetta-Morrison idea for a new guest worker program but agreed to broaden the existing rules to make it easier for growers to hire aliens.

But the conferees hit a snag on a House amendment, authored by Rep. Barney Frank, D-Mass., that had threatened to stall the negotiations from the start. The provision, which passed the House, 404-9, prohibited employers from hiring on the basis of citizenship. Discrimination complaints would be investigated by a new special counsel in the Justice Department, and individuals could file private suits if the government had not acted within 30 days. Successful plaintiffs would have been eligible for up to two years' back pay and attorneys' fees.

The amendment had been inserted into the House bill at the urging of Hispanic groups, which contended that employers, fearful of the new employer sanctions, would hire citizens rather than temporary or permanent resident aliens.

Rep. Peter W. Rodino Jr., D-N.J., chairman of the Judiciary Committee, argued that aliens who were lawfully in the United States ought to be able to compete equally in the workplace.

Backed by the White House and Senate, Simpson opposed the creation of a new legal apparatus within Justice. Particularly offensive to him was the idea, in his view, that a non-U.S. citizen could sue a U.S. company for hiring a citizen.

After proposals by Simpson and Mazzoli failed to break the deadlock, the conference recessed on Sept. 26, just days before Congress was scheduled to adjourn. Some observers suggested that the negotiations had been stalled by the clash of two strains in American culture, one that unconditionally welcomes immigrants and the other, nativist. "If the bill collapsed on that, it would have been as fundamental as you can get," said Charles D. Smith, associate editor of *Interpreter Releases*, a newsletter on immigration law. Simpson and Mazzoli, with backing from some opponents of the bill, denied that their intentions were nativist.

Just when the bill looked dead, Rep. Charles E. Schumer, D-NY a House conferee, came up with a compromise that was agreeable to both sides. It reasserted most of the Frank amendment's protections but extended them only to legal aliens who had declared an intention to become citizens.

At a meeting on Oct. 9, held as Congress deliberated on a continuing budget resolution for fiscal 1985, the House conferees approved the compromise with some changes. Class action suits would not be permitted, and the proposed special counsel was given 120 days to investigate discrimination charges before private suits could be filed.

While acceding to the measure, Simpson said that he still had "the gravest reservations" about the new protections granted to noncitizens.

Yet before those reservations could be discussed on the Senate floor, the conferees reached another impasse, this time on the extent to which the federal government would reimburse state and local governments for the cost of providing welfare, medical aid and other social services to aliens who gained legal status under the bill.

Earlier in the conference, the House and Senate had agreed to insert into the legislative history a statement of the conferees' support for a $1 billion annual ceiling on federal reimbursements during the first four years after enactment.

But Simpson had subsequently learned that Reagan would veto the bill unless the cap was statutory. Simpson argued that to hang up the conference on a statutory cap was self-defeating, because limited reimbursements were better than none.

But Democrats and Republicans, mostly from California, Florida and Texas, opposed the cap. "The federal government, in imposing a cap, is abdicating its responsibility for the legalization program," said Rep. Henry A. Waxman, D-Calif.

House conferees rejected the statutory cap, 15-13, with the majority including several Californians who had originally voted to put the cap in the conference report. Ostensibly, they switched their votes at the behest of their state's Republican governor, George Deukmejian.

But there was unanimous agreement that agricultural interests deserved the credit for the Members' change of heart. "You could see that the cap was being used when you saw three legislators vote against the cap who would ordinarily have supported it because the growers in their district got to [them] and said, 'Here's a way to kill the bill,' " Simpson said.

After 30 hours of public negotiations, the conference broke up, and House Democrats were quick to blame the White House for killing the bill.

But others cited the shortage of time. Indeed, at least one opponent of the cap, Panetta, was said to have reversed his position, and another, Rep. Larry Smith, D-Fla., was reportedly reconsidering his opposition as time ran out on the 98th Congress. Simpson-Mazzoli supporters charged that, without the months of delays imposed by O'Neill, a conference report would have been likely.

Yet the partisan sniping hid the real cause of the bill's death, some lobbyists charged. Even as the conferees struck their deals, key opponents were preparing to defeat a conference report on the House or Senate floor. Many supporters and opponents of the bill doubted Simpson's predictions of House passage of a conference report.

The conferees' compromises were tenuous because they brought together constituency groups that often face off against each other, including the American Civil Liberties Union and conservative groups such as the Conservative Caucus; the Chamber of Commerce of the United States and AFL-CIO; and the Western Growers Association and the United Farm Workers.

The final amnesty and antidiscrimination provisions, for example, were too flimsy for Hispanic organizations, yet were too generous for conservatives. And the guest worker provisions were too restrictive for growers but too lenient for organized labor; the AFL-CIO and

American Farm Bureau Federation each mounted a massive letter-writing campaign against the legislation during the conference.

"You had a strange array of bedfellows in the closing days working against" the bill, said C. F. Fields, a lobbyist for the farm federation.

"You had centrist, middle-of-the-road organizations that had come to the same conclusion that many of the more hard-line opponents had come to," said ACLU lobbyist Wade J. Henderson. "And that is that the compromises being struck were ultimately unacceptable and not in the interest of the country as a whole."

But Simpson-Mazzoli had drawn the backing of national opinion leaders. In the first week of the conference, a telegram of support for the measure was sent by the Emergency Coalition to save Simpson-Mazzoli. Among the message's signatories were former Presidents Carter and Ford, Colorado Democratic Gov. Richard D. Lamm, Cyrus R. Vance, Secretary of State under President Carter, and the Rev. Theodore M. Hesburgh, who headed the Select Commission on Immigration and Refugee Policy that was appointed by Carter.

As adjournment neared, major newspapers stepped up their lobbying for the bill's passage. Schumer conceded that a Sept. 28 editorial in *The New York Times* that characterized the alienage issue as a "mole hill," influenced his decision to seek a compromise.

But some contend that the bill simply did not have enough support. "Nobody supported this bill but [the Federation for American Immigration Reform] and the editorial writers," charged Dale Frederick Swartz, president of the Washington-based National Forum on Immigration, Refugees and Citizenship Affairs.

OUTLOOK

While critics of the legislation generally viewed its failure this year as an indictment of the comprehensive approach to immigration reform, that opinion is not unanimous. But supporters of the legislation are at odds over what approach to take the next time.

Phyllis Eisen, a consultant to the Mexican-American Legal Defense and Education Fund, which opposed the bill, believes it is fundamentally flawed. "Bad flesh on weak bones makes an invalid," she said.

The sponsors "seem to be the only ones convinced that this formula can succeed and would be in the best interests of the country," added Henderson.

Indeed, two of the most controversial parts of the Simpson-Mazzoli package—amnesty and liberalization of the guest worker program—threaten to keep the bill on shaky grounds. Rep. Kent Hance, D-Texas, found amnesty to be electorally explosive in his losing Senate primary battle to fill the seat of retiring GOP Sen. John Tower.

And the agricultural lobby, according to the farm federation's Fields, generally doesn't believe that simply liberalizing the existing guest worker rules would permit growers to hire sufficient migrant workers.

Conner of the immigration reform federation also believes that the comprehensive approach has lost its usefulness, acknowledging the success of opponents' efforts to abandon Simpson's "three-legged stool" of employer sanctions, legalization and worker identification. Conner places most of the blame on House Democrats for "giving in" to pressures from civil libertarians. But in conference negotiations with the House, he added, "there was a consistent pattern of Simpson yielding on every point. We were compromised to a fault."

Conner added that, in his opinion, amnesty was "finished . . . until we get control over illegal immigration." He said that his organization would support a piecemeal reform effort next year on behalf of employer sanctions and stricter enforcements.

"This victory by the opponents had a galvanizing effect on our supporters, almost the way the Germans' bombing of England did on the English," Conner said. "There's resentment, a feeling of being dealt dirty."

But not all the critics of reform are in favor of abandoning the idea of combining employer sanctions, amnesty and liberalized guest worker rules. "We've come too far in the three-legged approach to take the legs off the chair again," said Jane O'Grady, a lobbyist for the AFL--CIO. "I don't think a future Congress is going to approve [employer] sanctions without legalization."

Simpson remains confident that his basic approach will prevail, based partially on congressional experience with criminal code reform. "Persistence is the way to get it passed," he said. Referring to the criminal code revision that finally passed this year, Simpson said: "You may lose six times or eight times, but eventually, like this time, what do you have? You've got a criminal code on the books that people laughed about 6 years age. That's how you do it."

[FROM THE AMERICAN COUNCIL FOR NATIONALITIES SERVICE, OCT. 12, 1984]

INTERPRETER RELEASES

1. Simpson-Mazzoli Conference Recesses in Impasse

On Tuesday, October 10, 1984, Senate and House conferees reconvened to break their deadlock over the Simpson-Mazzoli immigration reform bills before the close of the 98th Congress. In five hours, conferees agreed on one part of a package proposal engineered by Rep. Charles Schumer (D-NY) but failed to agree on the second part. They resolved their impasse of Wednesday, September 26, over the Frank anti-discrimination measure, but reached loggerheads over averting a Presidential veto by placing a spending cap for legalization costs in the statute rather than in the conference report, as had been tentatively agreed on Friday, September 21. As we go to press, Congress is working on fiscal measures to keep the Government running into 1985. It has passed a continuing resolution to appropriate funds and it is debating a bill to raise the national debt ceiling that it expects to enact today. Talk of a "lame duck" session after the November election has quieted, and without an urgent reason, it is unlikely that Congress will be recalled. It is finally clear, therefore, that the Simpson-Mazzoli bills are dead in the 98th Congress.

Chairman Peter W. Rodino (D-NJ) opened the reconvened conference by observing that, because of the importance of the issues before the conferees, the shortness of time should not deter the conference from reporting. In response to an inquiry from Rep. Henry Waxman (D-CA) on whether the conference could revisit previously-decided questions, Chairman Rodino ruled that no issue finally settled could be reopened. Because Senator Alan K. Simpson (R-WY) had agreed only tentatively to the conference position on the spending cap subject to his meeting with administration officials, that single matter had not been finally settled and could be reopened. Rep. Waxman then stated that any compromise that placed a spending authorization cap in the statute was outside the scope of the conference, and he would make a point of order on that basis should the bill reach the House floor.

Anti-Discrimination

Rep. Schumer presented his compromise on the Frank anti-discrimination amendment. In hiring, recruitment, or referral for a fee, it would be an "unfair immigration-related employment practice" to discriminate against a person on the basis of national origin or "in the case of a citizen or intending citizen...because of such individual's citizenship status". "Intending citizen" is an old concept given a new application, said Rep. Schumer. The proposal defines an "intending citizen" as "an alien who (I) is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence [under the Simpson-Mazzoli legalization program], is admitted as a refugee under section 207, or is granted asylum under section 208, and (II) evidences an intention to become a citizen of the United States through completing a declaration of intention to become a citizen; but does not include an alien who fails to apply for naturalization within six months of the date the alien first becomes eligible (by virtue of period of lawful permanent residence) to apply for naturalization".

The proposal retains the Special Counsel under the United States Immigration Board and extends Special Counsel's decision deadline from 30 days to 120 days. It also places subpoena power in the Board and Administrative Law Judges who hear complaints rather than with Special Counsel. Citizenship status discrimination is allowed if necessary to do business with the Government. Complainants must elect between Special Counsel/USIB proceedings and proceedings before the Equal Employment Opportunity Commission under Title VII of the 1964 Civil Rights Act, and there is no provision for class actions. USIB relief is referenced directly to the National Labor Relations Act (NLRA), 29 USC 160, §10(d-g), providing for restitution, back pay, and cease and desist orders; through an amendment proposed by Rep. George Miller (D-CA), injunctive relief as in NLRA §10(l) is also provided. If Special Counsel has not filed a complaint with the USIB within 120 days, an individual may file a complaint directly with the USIB if he alleges a "pattern or practice of discriminatory activity" or, in clarifying language suggested by Rep. William McCollum (R-FL), "a knowing and intentional discriminatory act". Reasonable attorney's fees are allowed.

Joined by Rep. Howard Berman (D-CA), Rep. "Kika" de la Garza (D-TX) complained that, by making such abstract decisions, conferees "will do harm to people living in the U.S. for a long time". They questioned whether long-time lawful permanent resident aliens would be protected against employment discrimination anticipated from employer sanctions. Rep. Barney Frank (D-MA) stated that, to preserve "the fundamental principle of protecting intending citizens", they would be covered if, within six months, they had declared their intention to naturalize and were proceeding to do so, but they would be protected only from the time the declaration was filed, not retroactively.

There would be a strong incentive to seek naturalization, observed Rep. Ronald C. Packard (R-CA), not least in order to file frivolous suits. Rep. Romano Mazzoli (D-KY) pointed out that the risk of such abuse would last for only six months, and lawful permanent residents would continue to enjoy current civil rights protections, including those against national origin discrimination. A lawful permanent resident who did not sign the declaration and pursue naturalization would simply forfeit the right of suit enjoyed by an "intending citizen".

Rep. Leon Panetta (D-CA) compared three job applicants: (1) a U.S. citizen, (2) an eligible alien who declares his intention to become a citizen, and (3) an eligible alien who does not declare his intention to naturalize. There was general agreement that the proposal would protect only the first two applicants and not the third from discrimination, although Rep. Frank noted that 42 USC §1981 might protect the third person, too.

Rep. Berman proposed an amendment to include refugee and asylee applicants who had been given work permission by the Attorney General within the protections against employment discrimination. Rep. Schumer reported that the proposal would not be acceptable to the Senate, and conferees voted it down 13 to 10.

House conferees then approved 15 to 8 the amended Schumer variation of the Frank amendment, and it was offered to Senator Simpson, representing the Senate conferees. "[We enter] extraordinary and uncharted waters when we deal with the Schumer amendment", Senator Simpson declared, and "there will be great confusion in the land with what has been proposed". Taking this step "without thoughtful reflection, considered judgment, hearings" is "troubling to me as a legislator". While indicating that he had seriously considered rejecting the amended Schumer proposal and counteroffering the original Schumer language, with "the gravest reservations about this and the Special Counsel" Senator Simpson concurred in the amended Schumer offer.

Statutory Cap on Federal Reimbursement of State and Local Legalization Costs

The second part of the Schumer package came from the Senate conferees. Senator Simpson reported that President Reagan would veto legislation that did not have a spending cap in the bill itself. The Senate conferees, he said, would reject the tentative agreement that the conference had reached to recommend in its report that there be a cap of $1 billion per year for four years on federal reimbursement to states for legalization costs. Instead, the Senate proposed statutory authorizing language for the cap.

Rep. Lawrence Smith (D-FL) strongly objected to this proposal, citing "the cavalier attitude of this administration" that would make the law and have states and localities foot the bill. Arguing against Senator Simpson's assertion that the burden of undocumented aliens should be shared between the states and the federal government because the states benefit from property, sales, and income taxes paid, Rep. Smith stated that undocumented immigration is wholly a federal problem. The states are not allowed to legislate in the area. The people of Florida pay their federal taxes, and they expect all federal taxpayers to share the burden equitably. "If you cap at $1 billion or any sum at that level, you have effectively transferred" federal responsibility to the states. "This will hurt every state with a problem". Rep. Berman pointed to two inconsistencies:

(1) Senator Simpson had repeatedly stated that federal agencies that are against the bill, particularly the Office of Management and Budget, inflate its cost, yet the administration is using that erroneous base to insist on a statutory cap; and (2) when he was governor of California, President Reagan made his reputation on the principle that one level of government should not mandate programs to a lower level without paying for it.

Rep. Packard stated that Governor George Deukmejian of California had petitioned the California delegation to make sure costs are not transferred to the states. Rep. Carlos Moorhead (R-CA) stated that, rather than sluffing a federal burden onto the states, the bill should be revised to reflect what can be afforded. Pointing to the food stamp program, Rep. Panetta objected to establishing benefits at the federal level followed by caps on the federal level of support. Rep. Miller had "reservations whether states will receive even this amount of money". Rep. Frank termed the promised veto "a philosophical error on the part of this administration". Rep. Waxman criticized federal abdication of responsibility and characterized legalization as "largesse in our hearts" while "we say to states, you pay".

Favoring the Senate proposal, Rep. John Ehrlenborn (R-IL) argued that the question was simply whether to move language from the report to the bill. "When we agreed to cap, we were honest, we meant it, we had no mental reservations". Rep. McCollum said that, despite his earlier opposition to a bill with the Frank amendment in it, he supported Rep. Schumer's proposal. Agreement with the Senate proposition is necessary to report out a bill, and that is important to regain control of the borders. Rep. Daniel Lungren (R-CA) urged adoption for similar pragmatic reasons, and Rep. Schumer stated that the gains flow from, not to, the federal government, as state and local costs will not reach the cap. "States will not lose money, they will gain money".

House conferees voted 15 to 13 to reject the Senate proposal, and Chairman Rodino recessed the conference subject to the call of the Chair.

2. District Court Withdraws Visa Petition Decision

In *Interpreter Releases*, Vol. 60, No. 41, November 2, 1983, pp. 825-827, we digested the decision in *Hi-Hat Restaurant, Inc. v. INS*, 569 F.Supp. 776 (D.Ore.

Senator GRAHAM. The agreements reached in the 99th Congress authorized a reimbursement program that appropriates $1 billion in fiscal years 1988-91. The funds are given carry forward authority so that States will have funds available in the remaining 3 years of the program, fiscal years 1992 through 1994.

State and local governments agreed to support the bill based solely on the promise made by Congress to provide a reliable reimbursement program.

Congress began its retreat on the SLIAG commitment during the debate of the fiscal year 1990 appropriations bill for Labor, Health, and Human Services, Education, and Related Agencies. In the end, over $555 million was robbed from the SLIAG fund and distributed to other programs. A last minute agreement was reached to pay these funds back in fiscal year 1992.

For fiscal year 1991, the administration proposes a similar reduction in the scheduled $1 billion appropriation and elimination of the fiscal year 1992 payback.

At this point, I would like to submit for the record several letters from our colleagues and from the States opposing this budget request.

[The information follows:]

STATEMENT OF SENATOR LLOYD BENTSEN

Good Morning Mr. Chairman, Committee members and Senator Graham. I want to thank Senator Harkin for permitting me to testify about this year's funding of the SLIAG program, the State Legalization Impact Assistance Grants. I urge this Committee to maintain this year's $1 billion appropriation for SLIAG and the overall $4 billion funding of SLIAG. SLIAG monies are vitally important to Texas and other states with large legalized alien populations.

As you know, Congress made SLIAG an indispensable tool of the Immigration Reform and Control Act of 1986 which granted amnesty to illegal aliens who had been in this country before 1982. Through the Immigration Reform Act, we acted in a rare bipartisan spirit when we invited these aliens to become citizens of this nation. Through SLIAG, we backed up our invitation by promising $4 billion to reimburse states, like Texas, which had amnesty eligible aliens and which have to spend their own monies to provide public health and educational services to these amnesty applicants.

My presence here today should hopefully convey the importance I place on the deal we made with the states when we enacted SLIAG four years ago.

That deal promised the states $4 billion over four years, from fiscal years 1988 to 1991, $1 billion per year. We did not promise just $2 billion or $3 billion. But rather we promised an entire $4 billion. $4 billion in reimbursements was only fair because the states would shoulder the financial and social responsibility of leading eligible aliens to the rights and privileges of citizenship.

However, over Senator Graham's and my objections, last year Congress and the Administration reduced SLIAG's FY90 installment of $1 billion. They transferred $555 million of SLIAG monies to other programs.

Senator Graham and I responded by successfully amending the Immigration Reform Act. That amendment required the $555 million to be "paid back" to SLIAG in FY92.

I see the Administration again is trying to reduce another $1 billion installment of SLIAG. Its current budget proposal seeks to reduce FY91 funds to $301 million. And the Administration is also trying to eliminate the FY92 payback of $555 million.

Mr. Chairman, Texas cannot suffer another major SLIAG reduction if it is to help these aliens become citizens.

Quite honestly, my advocacy for SLIAG largely follows from my representation of Texas. I must advocate Texas' needs because of its large numbers of eligible aliens and because of the numerous services they justifiably need to become productive United States citizens. For example, Texas has the nation's second highest concentration of amnesty applicants, presently 440,000 out of a nationwide total of 3 million. 95% of those 440,000 are Hispanic.

These primarily Spanish speakers require adult education classes to pass their citizenship exams and avoid welfare dependance. The classes are fundamentals such as English as a second language, reading literacy and American History. Expenditures for adult education have consumed 56% of the SLIAG funds Texas has received.

Until fiscal year 1990, Texas had its fair share of a full $1 billion annual SLIAG installment. In fiscal year 1988, Texas received $102,758, 454 in SLIAG funding. In fiscal 1989, it received $104, 223,456. For those two years, Texas had the second highest SLIAG allotment among the states.

Texas will receive considerably less SLIAG monies with the $555 million reduction in fiscal 1990. Although the Department of Health and Human Services has not yet allotted Texas' 1990 share, estimates show that Texas will loose 66% of the allotment it annually received the two prior years. It will also loose approximately 66% for fiscal 91 if the White House successfully reduces this year's appropriation.

With 66% less in SLIAG funds, what can Texas do to help these legalized aliens. Very little. The 66% SLIAG cut will probably cause Texas to terminate its adult education classes for the aliens. Texas has paid for those classes directly from SLIAG.

The SLIAG issue transcends parochial state concerns when those cuts force Texas or any other state to discontinue education classes.

At that point, I see the issue as a potential national irony. I saw us invite millions of illegal aliens to join us as citizens of this country, the land of immigrants. However, four years after the invitation, we may be pulling the welcome mat out from under their feet, before many of them have even become citizens. We tell them you can become citizens but we cannot pay for the education you will need to obtain that right.

Mr. Chairman, participating in the budget summit, I know things have changed in how we can pay for domestic programs. The financial constraints are too many to mention.

But SLIAG is not some new idea whose time will have to wait because of the budget deficit. SLIAG is an old idea which has not lost its luster. More importantly, it is a deal we struck with 3 million people and fifty states. Keeping that deal may cost $1 billion now and $555 million next year. But that investment will quickly pay for itself with 3 million new productive citizens.

STATEMENT OF REPRESENTATIVE JOHN BRYANT

As a member of the Immigration, Refugees, and International Law Subcommittee of the House Committee on the Judiciary, I first proposed that the federal government reimburse state and local governments for 100 percent of their costs resulting from the legalization program that became a part of the Immigration Reform and Control Act (IRCA).

The Reagan Administration and others opposed any reimbursement for the costs that federal action mandated the states to assume.

The compromise that was finally achieved--the State Legalization Impact Assistance Grants (SLIAG)--provided that state and local governments be reimbursed on a formula basis from a fund of $1 billion a year from 1988 through 1991 for certain expenses imposed upon them by the federal government through IRCA. Funds unspent would be carried over through and made available to state and local governments through 1994.

In each succeeding year, the Reagan and Bush Administrations have sought, with considerable success, to reduce the federal government's committment to the SLIAG program. This has created a financial hardship for the affected state and local governments.

As a member of both the Immigration Subcommittee and the Committee on the Budget have opposed cuts in this program because I am convinced that the federal government should not impose costly programs on state and local governments without at least helping finance them. To do so is, quite simply, unreasonable and unfair.

In our deliberations about the possible reduction in appropriations for SLIAG, the affected states made clear that great difficulties were encountered in implementing SLIAG for a number of reasons, principally including delays at the federal level in promulgation of final regulations, clear guaidance on allowability of services, and documentation of costs.

As a result, initial drawdown of funds was slow for FY 1988, and reconstruction of these high initial costs constinues to be difficult. Some erroneously and some, perhaps, out of self-interest interpreted the slow drawdown as lack of need. That was not and is not the case.

In Texas, however, spending patterns have improved because the state has instituted methods of establishing cost and drawing funds that are working well.

In fact, the state estimates that at the current rate of drawdown and with full reimbursement of estimated costs for public health, public assistance, and education services to the newly legalized population, the state's allotment of SLIAG funds may be expended by the end of FY 1992.

President Bush has now recommended and Congress is again considering reduction of SLIAG funds in the FY 1991 appropriations. However, the consequences of the action may be more apparent since states are better able to document the effects. Texas identifies education services and indigent care in public hospitals as the major program areas receiving SLIAG funds in the state. The public hospital in Dallas, Texas, estimates that the hospital could lose up to $4 million next year if SLIAG funds are cut. In the past year, the hospital received 1,300 admissions and provided 2,000 outpatient visits for newly legalized individuals. Without SLIAG funds to reimburse the costs of serving this population, the locally-funded hospital would bear the full cost of serving this large population.

The education system provides equally dramatic statistics. The Dallas Independent School District provides classes in Dallas/Rockwall counties through its sysem of schools and that of its subcontractors provided English as a Second Language/civics classes for over 21,000 adult amnesty students. Fiscal year 1989-90 will show an addition enrollment of over 13,000 students.

While some of the students require basic literacy instruction, student information demonstrates that many students require prolonged instruction. Out of 241 classes in the Dallas area, 30 are at the pre-literacy level, 105 are at the beginning level, 56 at the intermediate level, 35 at the advanced level, and 15 at the pre-GED and GED level. The numbers justify the reason that Texas has fully supported the SLIAG-funded adult education program to ensure that the newly legalized population has the language and literacy skills to improve job opportunities. Education expenditures currently account for about 56 percent of total SLIAG funds drawn down to the state.

These program statistics clearly indicate the Immigration Reform and Control Act (IRCA) has had a direct federal effect on state and local governments as Congress anticipated when the impact assistance grants were created. The fiscal burden is just beginning to be acutely felt by state and local governments as the newly legalized population progresses through the process of adjudication, providers continue to refine methods of documenting costs and identifying the eligible population, and program utilization increases as a result of outreach efforts.

Texas estimates a loss in SLIAG funds of about $64 million due to the budget reductions in FY 1990. The FY 1991 proposed budget cuts will reduce the expected grant award an additional estimated $66 million and rescind the provision to restore FY 1990 cuts in FY 1992. The loss of

SLIAG funding in Texas translates into a significant fiscal burden on state and local providers of health, education, and social services.

The state fully expects to spend all available SLIAG funds in the time frame stipulated by IRCA. I believe any reduction in funding would be premature and unfairly burden state and local providers. I encourage responsible Congressional action to prevent this from occurring.

Senator **Graham**. Mr. Chairman, the administration's request is unacceptable. We cannot further erode the commitment made to the States and counties in 1986. How can we expect them to agree to future partnerships with the track record that we are establishing with SLIAG?

I look forward to the hearing and the testimony today on the administration's proposal and, again, to thank you for allowing the States and counties this opportunity to present their case.

Thank you, Mr. Chairman.

Senator **Harkin**. Senator Graham, thank you very much.

I now welcome our vice chairman of the subcommittee, Senator Specter.

Senator **Specter**. Thank you, Mr. Chairman. I am delighted to be with you this morning on this important subject. I know that Senator Graham and others feel very keenly about this issue. It was a highly contentious and controversial matter last year when we came to the conclusion of our subcommittee's efforts. I will not take up any further time at this juncture, but look forward to the testimony of the witnesses.

Senator **Harkin**. I thank Senator Graham for his continued interest in this area. It was due to Senator Graham's overview of this program, or, I should say his oversight of this program and his deep interest in making sure that we meet our obligations that this hearing is being held today.

I just want to thank Senator Graham for his diligent oversight of this program.

STATEMENT OF JOANNE BARNHART, ASSISTANT SECRETARY, FAMILY SUPPORT ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Senator **Harkin**. We will move ahead now to our first panel. We have divided our witnesses up into panels.

Our first panel will be JoAnne Barnhart, Assistant Secretary for the Family Support Administration.

Now someone tells me that you have a plane to catch and need to get out of here promptly?

Ms. **Barnhart**. Yes, sir; I do. But I will have someone here to answer questions when I finish. I will answer your questions first. But after the end of my panel, there will be someone available during the remainder of the hearing.

Senator **Harkin**. What time do you have to leave?

Ms. **Barnhart**. I think it is at 11:30.

Senator **Harkin**. I will ask you what I will ask everyone. If you would, just summarize your statements and make the high points for us. Then we will get to our questions. We would appreciate that.

Ms. **Barnhart**. Mr. Chairman, yes. I came here prepared to give a statement that will be under 5 minutes this morning, if that is satisfactory.

Senator **Harkin**. We are going to try using our lights for timing. There are green, yellow, and red, totaling 5 minutes for everyone. Thank you very much.

Ms. **Barnhart**. I am very pleased to have this opportunity to appear before you and the members of the subcommittee today to discuss the SLIAG, State legalization impact assistance grant program.

SLIAG is a hybrid program performing two different functions. The largest part of SLIAG essentially is a fiscal transfer mechanism. This part of SLIAG provides reimbursement to State and local governments for costs incurred in public assistance and public health programs, rather than assistance to legalized aliens.

The second part of SLIAG is the provision of adult educational services. IRCA provided funding for a temporary parallel system of adult English language and citizenship classes for aliens who received legal status under IRCA. IRCA created a significant short-term demand for adult educational services.

By law, aliens who obtained lawful temporary resident status under section 245 of the Immigration and Nationality Act—so-called pre-82 aliens—must demonstrate a minimal understanding of the English language and knowledge of the history and Government of the United States in order to remain legally in this country on a permanent basis.

That so many were able to meet these requirements by attending SLIAG-funded amnesty education classes in so short a period of time is SLIAG's major success story. This success is a tribute to many people at the State and local levels who worked very hard to make this possible.

But now, as these aliens attain permanent resident status, and over three-quarters of them have, I would like to point out, the demand for these services and costs are dropping quickly.

When IRCA was debated in Congress, there was considerable discussion about what, if any, impact legalization would have on State and local governments and what the Federal responsibility for such costs should be. The legislative history of SLIAG makes it clear that Congress viewed legalization as a shared Federal/State responsibility. Congress, as well as the executive branch and the States, recognized that all levels of government stood to benefit from the legalization program.

It is also clear from legislative history that the program's purpose was to offset some, not all, of the costs State and local governments might incur as a result of the Federal decision to grant legal status to aliens residing unlawfully in the United States. When the appropriation level was set by Congress in 1986, we did not know with any precision how many aliens would take advantage of IRCA's offer of legal status. What this population would look like, in terms of socioeconomic and demographic characteristics, is something else we did not know, and to what extent they might be eligible for or actually access publicly funded programs.

We are now in the third year of the SLIAG program. We know now more than we did in 1986 when IRCA was first enacted and when the funding level for SLIAG was first set.

Therefore, we believe it is time to reexamine the funding level as part of the appropriations process. As part of this reexamination, we should consider several factors in addition to the fact that SLIAG was not intended to offset 100 percent of States' gross costs.

These factors include the nature of States' costs, the tax revenues and other contributions this population makes to all levels of government, and the desirability of consolidating adult education activities.

We think the clearest reading of IRCA and its legislative history is that the program was intended to offset some of the additional costs that resulted directly from the legalization program. Most ongoing State and local programs provide assistance to needy residents regardless of their legal status. Thus, some legalized aliens likely were receiving assistance prior to their obtaining legal status and would have continued to receive assistance even in the absence of IRCA.

In general, when we hear about cost, it is a mixture of costs resulting from legalization and costs that would have incurred without IRCA.

In deciding to what extent Federal funds should subsidize state services, we also need to consider the economic contributions made by these new Americans. This is a population composed largely of economic migrants who came to the United States to work. The available data show that most of them are employed and contributing significant tax revenues and other economic benefits to State and local governments.

A final consideration is the provision of adult educational services to newly legalized aliens. The important job of providing classes for aliens adjusting to permanent residence largely is over. We now must look at whether we should continue a parallel system of adult education for newly legalized aliens outside of the adult education program administered by the U.S. Department of Education which is open to everyone.

After looking at all of these factors, the administration has requested a total of $2.4 billion for SLIAG through fiscal year 1991. We have carefully analyzed State and local estimates of their potential costs under IRCA and we are confident that this amount will reimburse the costs State and local governments could charge to their SLIAG grants through fiscal year 1991.

In summary, our budget request for SLIAG represents sufficient funds to meet the commitment made by the Federal Government to mitigate some of the net financial impact of legalization on State and local governments. It is consistent with Congress' intent to insure that State and local governments and the Federal Government share both the benefits and the responsibilities of granting legal status to aliens already residing and working in the United States.

PREPARED STATEMENT

Mr. Chairman, at this time I would be happy to attempt to answer any questions that you or other members of the committee might have for me.

[The statement follows:]

STATEMENT OF JO ANNE B. BARNHART

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before you today to discuss the State Legalization Impact Assistance Grant (SLIAG) program.

SLIAG was enacted as part of the Immigration Reform and Control Act of 1986 (IRCA). IRCA's various legalization provisions will permit about 2.7 million aliens previously residing unlawfully in the United States to receive legal status. However, IRCA limits for five years the Federal public assistance programs for which these aliens are eligible.

Undocumented aliens had access to most of the same public programs as IRCA-legalized aliens, including emergency medical services, indigent health care and adult education. However, states believed that the limitation on participation in Federal welfare programs would increase newly legalized aliens' participation in State and local assistance programs. In response to these concerns, Congress included the State Legalization Impact Assistance Grant program as part of IRCA in order to offset some of the costs resulting from the Federal decision to grant legal status to aliens residing unlawfully in the U.S.

SLIAG is a hybrid program, performing two different functions. One function is to provide a measure of fiscal assistance to state and local governments for costs they incur because legalized aliens participate in on-going public assistance and public health programs. The other function is to provide legalized aliens with access to education services, especially those needed by some legalized aliens to enable them to become permanent residents.

The largest part of SLIAG is essentially a fiscal transfer mechanism -- assistance to state and local governments, rather than assistance to legalized aliens. SLIAG does not fund new public assistance and public health programs set up exclusively for newly legalized aliens. Rather, SLIAG reimburses costs in on-going, generally available state and local assistance programs, such as general assistance, indigent health care, TB screening, and education of children. To the extent that legalized aliens do actually access existing programs, SLIAG can reimburse the state or local government for the share of those programs' costs that are attributable to legalized aliens. Reimbursement is available during the first five years that aliens have legal status under IRCA.

The second part of SLIAG is the provision of adult educational services. IRCA provided funding for a temporary, parallel system of adult English language and citizenship classes for aliens who received legal status under IRCA.

IRCA created a significant short-term demand for adult educational services. By law, aliens who obtained lawful temporary resident status under section 245A of the Immigration and Nationality Act -- so-called pre-82 aliens -- must demonstrate a minimal understanding of the English language and knowledge of the history and government of the United States in order to remain legally in this country on a permanent basis. IRCA gave these aliens only a limited period of time in which to acquire these skills and make the transition from temporary to permanent lawful residents. (Note that these requirements do not apply to the roughly one million "special agricultural workers" who will obtain legal status under section 210 of the Immigration and Nationality Act.)

More than three-quarters of the pre-82 aliens already have met the requirements for permanent residence. Almost all will meet this requirement by the end of 1990. Many were able to meet these requirements by attending SLIAG-funded amnesty education classes. The fact that so many newly legalized aliens have met the requirements for permanent residence in so short a period of time is SLIAG's major success story. This success is a tribute to the many people at the state and local level who worked very hard to make this possible. But now, the demand for these services and costs are dropping quickly.

As IRCA was being debated in Congress, there was considerable discussion about what, if any, impact legalization would have on state and local governments and what the Federal responsibility for such costs should be. The legislative history of SLIAG makes it clear that Congress viewed legalization as a shared Federal/State responsibility. Congress -- as well as the Executive Branch and the States -- recognized that all levels of government stood to benefit from the legalization program. It is also clear from the legislative history that the program's purpose was to offset some, not all, of the costs state and local governments might incur as a result of the Federal decision to grant legal status to aliens residing unlawfully in the United States.

The funding level for SLIAG was set in a permanent appropriation contained in the Immigration Reform and Control Act of 1986 (IRCA). As modified by this Department's appropriation bill for fiscal year 1990 (P.L. 101-166), funds are appropriated for fiscal years 1988 through 1992, but are available for use by States through 1994.

When the appropriation level was set by Congress in 1986, we did not know with any precision how many aliens would take advantage of IRCA's offer of legal status; what this population would look like in terms of socio-economic and demographic characteristics; and, to what extent they might be eligible for, or actually access, publicly funded programs.

When IRCA was passed, it was expected that states, after paying the Medicaid costs of pre-82 aliens, would have about $2 billion for adult education and for offsetting other state and local costs. Aliens legalized under IRCA have proven to be much more resourceful and self-sufficient than Congress and the Executive Branch expected. Welfare costs -- especially Medicaid -- are so much lower that current law would give states about $3 billion, rather than $2 billion, for non-Medicaid costs. (Grants to states are $500 million higher because of unexpectedly low Federal welfare costs, which resulted in a lower Federal offset, and state Medicaid costs through fiscal year 1992 will also be $500 million lower than expected.)

We are now in the third year of the SLIAG program. We know more than we did in 1986 when IRCA was enacted and the funding level for SLIAG was set. Therefore, it is time to re-examine the funding level as part of the appropriation process.

As part of this re-examination, there are several factors that should be considered, in addition to the fact that SLIAG was not intended to offset 100 percent of states' gross costs. Those factors include the nature of states' costs, the tax revenues and other contributions this population makes to all levels of government, and the desirability of consolidating adult education activities.

We think the clearest reading of IRCA and its legislative history is that the program was intended to offset some of the additional costs that resulted directly from the legalization program. However, that has proven to be a very difficult concept to measure.

Most on-going state and local programs provide assistance to needy residents regardless of their legal status. Thus, some legalized aliens likely were receiving assistance prior to their obtaining legal status and would have continued to receive services or benefits even in the absence of IRCA. These costs are the result of state and local decisions regarding eligibility for public programs, not of the Federal decision to grant legal status to aliens residing unlawfully in the U.S.

In practice, however, we can only measure total costs -- costs that would have been incurred anyway, plus whatever incremental costs that resulted from granting legal status to this population. Representatives of the states likely will tell you that if there are no changes in SLIAG, they expect to find sufficient state and local costs to claim against SLIAG. It is important to remember that they are talking about a mixture of these two components -- costs attributable to the Federal decision to grant legal status to aliens residing unlawfully in this country and costs attributable to state and local decisions to provide services and benefits regardless of immigration status.

In deciding to what extent Federal funds should subsidize state services, we also need to consider the economic contributions made by these new Americans. This is a population composed largely of economic migrants who came to the United States to work. The available data show that most of them are employed and contributing tax revenues and other economic benefits to state and local governments. As with other waves of immigrants, legalized aliens' earnings and contributions will increase the longer they stay in this country. We are working to quantify some of these benefits, which we will make available to the Committee.

A final consideration is the provision of adult education services to newly legalized aliens. Now that the important job of providing classes for purposes of aliens' adjusting to permanent residence largely is over, we must now look at the longer term. In particular, we believe Congress should reexamine whether we should continue a parallel system of adult education for newly legalized aliens outside of the adult education program administered by the U.S. Department of Education, which is open to everyone, not just legalized aliens. After looking at all of these factors, the Administration has requested a total of $2.4 billion for SLIAG through fiscal year 1991. We have carefully analyzed State and local estimates of their potential costs under IRCA, and we are confident that this amount will reimburse the costs state and local governments could charge to their SLIAG grants through fiscal year 1991.

The major direct impacts of IRCA already have occurred and their costs reimbursed with SLIAG funds. These were the backlog of public health needs identified by the medical examinations required of applicants for legalization in 1987 and 1988 and the need to establish amnesty education classes to ensure that pre-82 aliens would be able to adjust to lawful permanent resident status.

These direct impacts account for only a small fraction of the $2.4 billion that will be available under our request. The remaining Federal funds will be available to State and local governments to offset the majority of other costs that may be incurred by state and local governments -- including costs that would have been incurred even without the legalization program.

In summary, our budget request for SLIAG represents sufficient funds to meet the commitment made by the Federal government to mitigate some of the net financial impact of legalization on state and local governments. It is consistent with Congress' intent to ensure that state and local governments and the Federal government share both the benefits and the responsibilities of granting legal status to aliens already residing and working in the United States.

I would be pleased to answer any questions you may have.

REIMBURSEMENT

Senator **Harkin**. Ms. Barnhart, thank you very much. I'm just going to ask one question for the record.

Some of the information that we have had in our subcommittee and to me personally suggests that your agency has been slow in putting out regulations and guidance on the procedure and criteria for seeking reimbursement, and that is why the State drawdown of SLIAG appropriations has been slow.

What is your response to these charges, and are your guidelines fully in place?

Ms. **Barnhart**. I would say, Mr. Chairman, that I think it is to be expected with any brand new Federal program, as SLIAG was a few years ago, that there would be some delay in getting started and some sluggish implementation not only at the Federal level but at the State level as well. Indeed, we did experience that, unfortunately, and I think that the States have a valid point when they make the comment that the regulations were not issued immediately and guidelines were not available perhaps as quickly as they could have been.

I would say to that, though, my understanding is that initial guidelines and preliminary regulations were made available to the States in 1987. The final regulation was published in 1988.

So, while that may indeed have been a valid reason for some of the earlier problems, in terms of drawdown on the part of the States, that should no longer be a problem as we are 2 years past the publication of those regulations.

I would also like to point out that it is my understanding—and I say it was my understanding, sir, because I was not at the agency at the time—it is my understanding that the initial guidelines, in terms of cost documentation and some of the other complicated issues that states and our program people at the Federal level have had to deal with started coming out in 1987 as well. These documents were compiled into a handbook in, I think, late 1988.

So I would hate for there to be some confusion about the guidance that came out in the handbook. It was really not the first time States were seeing it; it was the first time it had been compiled.

So, yes, there were startup problems. There was a lag time in getting started. But I think we have been a couple of years beyond that at this point.

Senator **Harkin**. Guidelines are in place?

Ms. **Barnhart**. Excuse me, sir?

Senator **Harkin**. The guidelines are now fully in place?

Ms. **Barnhart**. Yes, sir; let me point out one thing in terms of cost documentation.

Yes; the regulations are clearly in place, and basic guidelines on cost documentation.

But I would like to point out that we try to work very closely with the States and to be as cooperative as possible in terms of documenting costs. And so, while we do have guidelines out there, at the same time, in our effort to be cooperative, we work with whatever data the States send in to us. So the guidelines might not cover every conceivable aspect of the kinds of data that we get from the States. But there clearly are guidelines available on cost documentation. Yes.

Senator **Harkin**. Thank you very much, Ms. Barnhart.

Senator Graham.

Senator **Graham**. I am trying to understand if the Federal position is based on a sense that the agreement that was reached in 1986 was, as a matter of public policy, an inappropriate one and, therefore, should be unilaterally changed; or whether the facts upon which that agreement was predicated have proven to be unsustainable.

Which is the basis of your recommendation?

Ms. **Barnhart**. The basis for our recommendation, for the $303 million that we are requesting for fiscal year 1991, is that we believe the amount of funds the States will need through fiscal year 1991 is $2.4 billion, in terms of providing 100-percent reimbursement for the costs that States will have incurred for ELA's by that point in time.

If you are referring, Senator Graham, to the proposal not to continue funding beyond fiscal year 1991 and to limit the Federal share for SLIAG to $2.4 billion, that position is derived from the fact that in the report language, the legislative history that I referred to and the report language that came out of the Judiciary Committee, made reference to the fact that the committee did not intend that SLIAG would provide 100-percent reimbursement for those costs.

Senator **Graham**. In 1986, what was the Department's understanding of what percentage of the cost of transition for this population was to be Federal?

Ms. **Barnhart**. I cannot give you a firm answer on that, Senator Graham. I am not confident that the Department in 1986 had a view on the percentage of costs and the exact percentage of costs that appeared to be fair.

Senator **Graham**. Well, whatever the idea was in 1986, you are not suggesting that it is your intention to change the Federal/State proportion?

Ms. **Barnhart**. Well, Senator Graham, as I just explained, I am not exactly familiar with what the idea was in 1986. The administration makes the current proposal with the belief that the $2.4 billion level of funding reflects a substantial contribution on the part of the Federal Government, a little over 70 percent of what we believe the ultimate costs associated with SLIAG would be for the States and the local governments; the proposal takes into consideration other factors, like the fact that the SLIAG population is largely a working population and many of them are tax-paying citizens, contributing to the State and local economies; also, the ELA's who receive services in the State and local governments, for which we reimburse the States, would have received services like other residents had SLIAG not come into existence. This is because, as I think is quite well known, many State and local governments provide service regardless of legal status.

Senator **Graham**. Again, I come back to my question. You are recommending a substantial reduction from the $4 billion level of funding which the 1986 act contemplated.

I am trying to determine if that recommendation is based on a judgment that the relative share of State/local/Federal costs for this population you feel was either improvidently set in 1986 and, therefore, should be shifted, or that the total cost of meeting those needs is less than had been contemplated in 1986, and, therefore, it will require a diminished Federal funding level in order to meet the relative Federal commitment that was made in 1986.

Ms. Barnhart. Well, in terms of what was contemplated at that time, I believe the States were expecting a certain level of Federal contribution in SLIAG.

At that time, the Federal offset for the funds and the services that are provided under Medicaid, food stamps, and so on, was estimated to be $1 billion. That meant with a $4 billion funding level across the life of the program, the States were actually anticipating that they would receive somewhere around $3 billion.

Due to reestimating of the Federal offset and better information that was available to us, that has actually been cut in half. So we now estimate the total Federal offset is going to be somewhere around $500 million.

Senator Graham. What is the basis of your statement that the Federal offset was contemplated to be 25 percent of the program costs?

Ms. Barnhart. At the time, my understanding is——

Senator Graham. What is the basis of your understanding that at the time, in 1986, the assumption was that the Federal offset would be 25 percent?

Ms. Barnhart. The program people who were working in the program at the time provided historical information on the program to me, so that I could appear here today, since I was not at the agency at that time.

Senator Graham. Is that information included in your statement?

Ms. Barnhart. I'm not sure if it's included in my written statement for the record or not.

Senator Graham. Could you supplement the record with the statements of those people who had access to the information in 1986 as to what their assumption was as to the level of Federal offset?

Ms. Barnhart. I would be happy to provide whatever information we have on that, Senator.

[The information follows:]

Estimates of Federal Offset

The following table shows our original estimate of the Federal offset, made shortly after the enactment of the Immigration Reform and Control Act of 1986 [IRCA], and our current estimate, made in June 1989.

[In millions of dollars]

Fiscal year	Original estimate	Current estimate
1988	[1] $70	[1] $70
1989	355	100
1990	256	130

[In millions of dollars]

Fiscal year	Original estimate	Current estimate
1991	267	160
Total	948	460

[1] The Immigration Reform and Control Act of 1986 [IRCA] sets the fiscal year 1988 offset at $70 million.

We made our initial estimates based on census data on that portion of the undocumented alien population that appeared to be eligible for legalization. We used that data to represent the economic and demographic characteristics of the legalized alien population. We then assumed that use of Medicaid and other Federal programs would begin at a level slightly below the participation rate exhibited by populations with similar economic and demographic characteristics and would increase up to the general rate for similar populations over 4 years.

Last summer, it became apparent that we, as well as States, had substantially overestimated legalized aliens' use of public assistance programs, including Medicaid, the principal component of the Federal offset. We consulted with a number of the major States to determine the actual use of Medicaid by newly legalized aliens and revised our offset estimates for fiscal years 1988 and 1989 accordingly. The increase between fiscal years 1988 and 1989 reflects largely the increase in the number of legalized aliens between those 2 years.

We assumed that use of Medicaid by legalized aliens would increase in fiscal years 1990 and 1991. The projected increase in Medicaid use represents our assumption of a shift toward legalized aliens using Medicaid at higher rates than in the past, and a concomitant reduction in their use of other, fully State and locally funded indigent health programs. Prior to enactment of IRCA, aliens were barred from Medicaid, but not from State and locally funded indigent health programs. We expect that legalized aliens will now begin accessing Medicaid, rather than these other State and locally funded indigent health programs. In fact, most such programs screen incoming clients to determine Medicaid eligibility and encourage the client to apply for Medicaid, if eligible. Thus, increased Medicaid use doesn't necessarily reflect a higher level of medical services being accessed by newly legalized aliens, but rather a shift in the funding source for those services.

States also substantially overestimated the impact of legalization. Comparing the estimates States made in their fiscal year 1988 and 1989 applications with the level of costs we're currently showing, we see that States overestimated their costs by 30 to 50 percent. Note that the "Original State Estimate" column represents cost estimates accepted by HHS after negotiation with States about the reasonableness of and basis for their estimates. The estimates States initially submitted to HHS were even higher than this.

[Dollars in millions]

Fiscal year	States' original estimate	Current estimate	Difference	
			Dollars	Percent
1988	$575	$258	$317	55
1989	1,000	664	336	34
Total	1,575	922	653	41

The President's budget request of $2.4 billion represents 80 percent of the $3 billion ($4 billion minus the initial offset estimate of $1 billion) States originally expected to receive under IRCA when it was enacted in 1986. If $3 billion was a reasonable level of reimbursement at a time when the impact of legalization was being overestimated by 30 to 50 percent or more, then a funding level of 80 percent of that amount is generous now that we can more accurately measure the impact of legalization Note also that the amount by which States overestimated costs in fiscal years 1988 and 1989, $653 million, is about the amount of reduction requested in the President's budget relative to the $3 billion States initially thought would be available.

LEGALIZATION

Senator **Graham**. You made a statement that large numbers of these individuals who were in the process of legalization have a history of being well educated, healthy, English speaking, and employed. That seemed to be contrary to the specific information that Senator Wilson provided to the committee relative to the population in California, and California represents the largest number of these individuals.

Could you give us your evidence as to how you arrived at a different profile than he did?

Ms. **Barnhart**. Sir, first of all, in terms of large numbers being English-speaking, I don't believe I made a comment along those lines. Let me clarify that, since I certainly was not intending to mislead the committee in any way.

Rather, the point I was trying to make is that roughly three-quarters of the ELA's have now met the permanent residency requirements for speaking English, as well as the history knowledge of the U.S. history.

In terms of the individuals being a working part of the population and contributing, that is information we get from INS as well as other studies that have been done. I believe there was a study that was recently done by the State of California.

We could provide that for the record, if you would like.

Senator **Graham**. Since I believe we are essentially here dealing with the differences in what the State and local representatives feel the facts are, compared to your facts, the committee, the Senate, and the American people would like to have the highest level of specificity about what you are predicating your statements to be. This is in order to compare that with the level of specificity that is going to be coming from the State and local community.

Ms. **Barnhart**. Certainly.

I would be very pleased to submit whatever information we have on that.

[The information follows:]

Legalized Aliens

There have been three major studies of newly legalized aliens—two by States (California and Maryland) and one by the Immigration and Naturalization Service. All of these studies show that this is a working population, not a welfare population. I'd like to highlight some of the relevant findings. Most of these figures are taken from the California study, the most detailed released to date. The INS study, when released, will corroborate these findings.

Demographics.—Newly legalized aliens are a working-age population. Among pre-82 aliens, 81 percent are 15–44. Only 1 percent are 65 or older. Ninety-one percent of special agricultural workers [SAW's] are 15–44. Males account for 57 percent of pre-82 aliens and 82 percent of SAW's. Seventy percent of pre-82's are from Mexico, as are 82 percent of SAW's. Of the two groups combined, 56 percent live in California, and the next largest States (Texas, Florida, New York, and Illinois) account for another 30 percent.

Length of residence.—All pre-82's have been living and working in the United States for at least 8 years now. Over 40 percent came to the United States before 1978. While SAW's could have come to the United States as late as 1986, at least 27 percent first came to live in the United States before 1982.

Employment and income.—About 85 percent of those surveyed worked full time. Median family take-home pay levels were about $400 a week for pre-82's, and $350 for SAW's.

Those still in agriculture.—Of those SAW's surveyed, only 33 percent reported that they had worked in agriculture in the United States during the previous year, and only 27 percent said they plan to remain in agricultural work. While the number of SAW's in the California survey is small and arguably biased toward more motivated individuals, this finding points out that by no means are all of the aliens who applied under IRCA's seasonal agricultural worker provision dependent on low-paying seasonal agricultural employment.

Health.—Newly legalized aliens appear to be a healthy population—90 percent said their health was good or excellent. Only about 44 percent reported visiting a doctor or medical assistant within the preceding 12 months—compared to 70 percent of California's general population. Availability of health insurance was lower for newly legalized aliens than for the general Hispanic population—54 percent for pre-82's and 70 percent of SAW's did not have health insurance, compared with about 37 percent of California's Hispanic population. However, 97 percent said they had not had to delay needed health care since legalization.

Use of government programs.—The newly legalized population rarely uses public assistance or food stamps, or even those programs in which participation would not jeopardize their legalization status. Eighty-four percent of pre-82's and 72 percent of SAW's reported they had never needed publicly supported assistance.

FEDERAL OFFSET

Senator **Graham**. Going back to the offset question, let me ask this.

In fiscal year 1988, the Federal offset was approximately $70 million. Your current recommendation is that the Federal offset should be $160 million out of the funds that you are recommending to be appropriated for fiscal year 1991.

If the Federal offset has grown by almost 2½ times during this period, what is the basis upon which you are assuming that the State and local costs have been diminished during that same period?

Ms. **Barnhart**. We actually based our estimate for State costs on the information that we get from the States. We receive INS data on the population and estimate how many people we think will continue to be eligible for the services.

We try to look at actual costs that States have incurred, the cost per ELA, for services for which we reimburse the States and local governments. We also include an inflation factor, counting on an increase in cost of providing services. We included an extra factor in case of increased participation—beyond the current usage. We include education data, the numbers of people that we think would continue to avail themselves of the education services that are offered.

And so, that is how we arrived at our estimate.

I would be happy, again, to provide in more detail the specifics of our estimate, a break-out for each of those, if you would like.

Senator **Graham**. We are going to be very interested in the basis of your earlier statement, that in 1986 the assumption was that 25 percent of the total cost would be the Federal offset. I was in the negotiations throughout this period, leading up to 1986, and I have no recall of this and, in fact, the documentation which I am going to file in my opinion does not substantiate the expectation that there would be that high a Federal offset.

But even that assumes a 1-to-3 relationship of Federal offset to State and local expenditures.

Your current recommendation is $160 million of Federal offset and $301 million of local, which is less than a 1-to-2 ratio.

What has led you to believe that instead of your suggestion of a 3-to-1 ratio, that we are now down to a less than 2 to 1 Federal to State and local costs?

Ms. BARNHART. Well, in part we do think that the number of the ELA's who will be eligible for services will drop dramatically from 1992 to 1993.

Senator GRAHAM. Why would they drop more dramatically on the State and local side of the obligation than they would on the Federal side?

Ms. BARNHART. Well, I think in part because of the kinds of education classes that the population may have been using to a greater extent, since only one-quarter of them remain to meet the permanent residency status. So part of it is from education; part of it would be that the public health services would have dropped, because a lot of the things that are provided under the Public Health Service are related to the initial filing for temporary status, having to do with immunization and treatment for contagious disease, and so some of that would have been less.

Again, I would be happy to provide additional information as to why we made those assumptions for the record.

Senator GRAHAM. Yes; thank you.

[The information follows:]

FUNDS AVAILABLE TO STATES

The real issue is the amount of funds that are made available to States. The President's budget calls for a total of $2.4 billion to be made available to States. We think that's the appropriate amount.

Focusing only on the Federal offset and State grants in fiscal year 1991 ignores the large amount of funds made available to States in fiscal years 1988, 1989, and 1990. If we look at fiscal years 1988 through 1991 as a whole, the Federal offset is $460 million, and grants to States are $2.4 billion. This works out to more than $5 in State grants for every dollar in the Federal offset—much higher than the 3-to-1 ratio initially expected.

The reason States now are getting a bigger share is that the impact of legalization is less than anyone expected when IRCA was enacted. In 1986, we estimated that the Federal offset would be about $1 billion, as you pointed out. Last summer, we cut that estimate in half because legalized aliens were not accessing programs like Medicaid to the extent we had initially estimated. The effect of this, because of the way IRCA works, is to give more funds to States because welfare expenditures were less than expected. Our budget request reflects the fact that the impacts of legalization have been less than expected.

FUNDING REQUIREMENTS

Senator GRAHAM. Mr. Chairman, I ask your indulgence. I have a Floridian to introduce before the Judiciary Committee at this time. I will return as soon as I have completed that happy task.

Senator HARKIN. Certainly.

Senator Specter.

Senator SPECTER. Mr. Chairman, I have just a couple of questions, and then I have to depart as well, so that I can await Senator Graham's arrival at the Judiciary Committee and join him at that hearing.

As I think most of you know, we function with many hearings going on at the same time.

Ms. Barnhart, the central question, as I see it, is whether the States will have sufficient funds to meet this responsibility confronting the States. It seemed last year to Chairman Harkin and myself that the funds which had accrued and were not being used had much more urgent requirements within the scope of our funding requirements for Labor, Health, Human Services and Education, which has enormous responsibilities and very limited funds.

Now the administration has come forward with the same line that we were concerned with last year and the administration has made certain corresponding reductions in the budget request. You testified that is not the need at this moment.

So the question I have is to try to construct an approach where we have funds available to be sure that the needs are met when they arise. It may be that we will have to approach this with supplemental appropriations as we go along because there are so many urgent needs that we face in the budgeting process.

I would like your thinking and really the administration's assurances that we can come up with the moneys needed when they are required by the states to fulfill the Federal commitment.

Ms. BARNHART. I believe, Senator Specter, that if the committee funded the program at the $303 million requested for fiscal year 1991, that I could give you the assurance—certainly to the best of my ability—that the funds that the States would need through fiscal year 1991 would be there.

Senator SPECTER. Do you anticipate that they will spend all of the available funds through fiscal year 1991?

Ms. BARNHART. Yes; we would anticipate that they would spend the full $2.4 billion through fiscal year 1991.

Senator SPECTER. But how about the moneys which are on hand?

Ms. BARNHART. I was going to say that it would include some of the funds that they have on hand, in addition to the additional funds.

Senator SPECTER. But not all of those funds?

Ms. BARNHART. Yes; they would spend all those funds.

The point I was going to make is it is not clear States would draw down all those funds by the end of fiscal year 1991.

Senator SPECTER. That is the critical question.

What I would like you to do is to think through and provide us for the record what you see being spent in fiscal year 1991, taking into account the funds now on hand and the funds proposed, so that we have as firm an idea as possible as to what the real needs will be.

Ms. BARNHART. By being spent, do you mean as well being drawn down through fiscal year 1991?

Senator SPECTER. Yes.

Ms. BARNHART. We would be happy to provide that for the record.

Senator SPECTER. Thank you.

[The information follows:]

SLIAG OUTLAYS

Our current estimates of SLIAG outlays are as follows:

[In millions of dollars]

Fiscal year	Annual	Cumulative
1988	$9	$9
1989	322	331
1990	600	931
1991	900	1,831

Under the administration's budget request, States will have a total of $2,400 million in grant authority for fiscal years 1988 through 1994. We estimate that only about three-quarters of this amount will have been expended by the end of fiscal year 1991.

BUDGET REQUESTS

Senator **Specter**. Thank you, very much, Mr. Chairman.

Senator **Harkin**. Just to respond to that, Senator Specter—and I know you have to leave—I understand the States plan to submit a total of $2.7 billion in requests through fiscal year 1991. You are projecting payments or drawdowns of $1.5 billion through 1991. Is that about right? Am I in the ballpark?

Ms. **Barnhart**. That is about right.

I would point out that, historically, the estimates that have been submitted by the States have been high. In some of the prior years the estimates have ranged from 34 percent to 54 percent too high. I think that is an important point to keep in mind when looking at the State estimates.

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. Thank you very much, Ms. Barnhart, and thank you, Senator Specter.

There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Institute for response subsequent to the hearing:]

Questions Submitted by the Subcommittee

IMPACT OF LEGALIZATION

Question. You've stated that the impact of legalization on State and local governments has been less than what was expected when IRCA was enacted and the funding level set. Upon what do you base that conclusion?

Answer. Both the Federal Government and States initially overestimated the impact of legalizing this population. We initially estimated that the Federal offset—mostly Federal Medicaid costs—would be nearly $1 billion. Last summer, when it became clear that legalized aliens' use of Medicaid would come nowhere near that level, we revised our estimate downward to just over $460 million for fiscal years 1998–91.

States, too, overestimated the impact of legalization. Comparing the estimates States made in their fiscal year 1988 and 1989 applications with the level of costs we're currently showing, we see that States overestimated their costs by 30 to 50 percent. Note that the "Original State Estimate" column represents cost estimates accepted by HHS after negotiation with States about the reasonableness of and basis for their estimates. The estimates States initially submitted to HHS were even higher than this.

[Dollars in millions]

Fiscal year	States' original estimate	Current estimate	Difference	
			Dollars	Percent
1988	$575	$258	$317	55
1989	1,000	664	336	34
Total	1,575	922	336	41

It's apparent that everybody expected the impact of legalization to be much higher than what is turning out to be the case. The President's budget request of $2.4 billion represents 80 percent of the $3 billion ($4 billion minus the initial offset estimate of $1 billion) States originally expected to receive under IRCA when it was enacted in 1986. If $3 billion was a reasonable level of reimbursement at a time when the impact of legalization was being overestimated by 30 to 50 percent, then a funding level of 80 percent of that amount is generous now that we can more accurately measure the impact of legalization. Note also that the amount by which States overestimated costs in fiscal years 1988 and 1989, $653 million, is about the amount of reduction requested in the President's budget relative to the $3 billion States initially thought would be available.

SERVICES AVAILABLE TO LEGALIZED ALIENS

Question. State witness indicated that some programs were not available to aliens prior to their receiving legal status. Have your estimates of the impact of legalization taken this into account?

Answer. Yes they have. Most State and local programs were available to aliens prior to their legalization. This includes virtually all of the programs where there are significant costs associated with legalized aliens, e.g., State and locally funded indigent health programs and adult education services.

In a few States and counties, only legal aliens and citizens could receive benefits under cash assistance programs such as general assistance. However, these cases seem to be the exception. The use of cash assistance programs by legalized aliens has been extremely low, much lower than States expected.

TAX REVENUES GENERATED BY LEGALIZED ALIENS

Question. Do you have an estimate of the tax revenues generated by legalized aliens?

Answer. We have some very preliminary estimates. We estimate that legalized aliens annually generate about $2 to $3 billion in State and local tax revenues and about $3 to $5 billion in Federal tax revenues.

Again, these are preliminary estimates, but it's clear that legalized aliens generate substantial revenues for all levels of government. Also, as the prime benefit of legalization—the ability to work legally for any employer in the United States—takes hold, we expect these revenues to increase.

RELATIONSHIP OF FEDERAL OFFSET TO STATE GRANTS

Question. You indicated that the initial estimate of the Federal offset was about $1 billion. This meant that, out of the $4 billion total, States would get about $3 for every $1 in the Federal offset. However, the President's budget request indicates that the Federal offset in fiscal year 1991 will be $160 billion, compared with just over $300 million for grants to States—or only $2 for States for every dollar in the Federal offset. How do you justify this disparity.

Answer. The real issue is the amount of funds that are made available to States. The President's budget calls for a total of $2.4 billion to be made available to States. We think that's the appropriate amount. The Federal offset is not an amount that's appropriated and available for use. It's merely a calculation that defines the amount of grant funds available to States.

Focusing on fiscal year 1991 ignores the large amount of funds made available to States in fiscal years 1988, 1989, and 1990. If we look at fiscal years 1988 through 1991 as a whole, the Federal offset is $460 million, and grants to States are $2.4 billion. This works out to more than $5 in State grants for every dollar in the Federal offset—much higher than the 3-to-1 ratio initially expected.

The reason States now are getting a bigger share is that the impact of legalization is less than anyone expected when IRCA was enacted. In 1986, we estimated that the Federal offset would be about $1 billion, as you pointed out. Last summer, we cut that estimate in half because legalized aliens were not accessing programs like Medicaid to the extent we had initially estimated. The effect of this, because of the way IRCA works, is to give more funds to States because welfare expenditures were less than expected. Our budget request reflects the fact that the impacts of legalization have been less than expected.

STATEMENT OF JOAQUIN G. AVINO, DADE COUNTY MANAGER, REPRESENTING THE NATIONAL ASSOCIATION OF COUNTIES

ACCOMPANIED BY VIRGINIA COLLINS, CHIEF ADMINISTRATIVE OFFICER, COUNTY OF LOS ANGELES, REPRESENTING THE NATIONAL ASSOCIATION OF COUNTIES

Senator **Harkin**. We will now go to our second panel, consisting of the National Association of Counties and Joaquin G. Avino, Dade County manager; Virginia Collins, chief administrative officer, county of Los Angeles; Kevin Concannon, chairman of the APWA task force on immigration reform of the Oregon Department of Human Resources; and Mark Helmar, assistant secretary for program and fiscal issues of the California Health and Welfare Agency.

So we have two persons from California, one from Oregon and one from Florida.

We will begin by asking the witnesses to observe a 5-minute time limitation. If you have anything further to say or a more detailed statement, just submit those for the record.

After all the witnesses have completed their prepared remarks, we will turn to questions.

We will begin with the joint testimony of Mr. Avino and Ms. Collins on behalf of our Nation's counties.

Is that correct?

Mr. Avino.

Ms. **Collins**. Yes, Senator, that's correct.

Senator **Harkin**. Welcome to the subcommittee.

Mr. Avino, please proceed.

STATEMENT OF JOAQUIN G. AVINO

Mr. **Avino**. Good morning, Mr. Chairman and distinguished members of the committee.

I am Joaquin Avino, county manager of Dade County, FL. My colleague is Virginia Collins of the county of Los Angeles, CA.

We are here today on behalf of the National Association of Counties to talk to you about fiscal year 1991 SLIAG funds and to delineate implementation problems that counties are experiencing in carrying out provisions of the Federal Immigration Reform and Control Act, IRCA, of 1986.

The major points of our testimony will include the following.

First, NACO strongly opposes any reduction in SLIAG appropriations for fiscal year 1991. The Federal Government should honor its financial commitments in IRCA to share financial responsibility for the costs of its national immigration policies.

Second, the low Federal SLIAG outlays reflect the fact that States and counties have yet to be reimbursed for most of their legalized alien costs, not necessarily the lack of such costs.

Third, the delays in SLIAG payments have been largely due to the difficulty of identifying the cost of services provided to legalized aliens who are reluctant to reveal their immigration status and to how the Federal Government has implemented IRCA; specifically, the slow adjudication of legalization applications, delays in the program implementation, and complex Federal SLIAG cost documentation requirements.

Fourth, the drawdown of SLIAG funds will significantly increase as more counties claim reimbursement for prior year costs and have procedures in place for documenting SLIAG-related costs more quickly. Legalized alien costs also will be higher in fiscal year 1991 than in prior years, due to the design of the legalization program, projected increases in service utilization and inflation.

While Los Angeles and Dade County are unique in terms of the size of the IRCA population, our experiences are the same, even to a degree frustrating us, very much so.

Let me expand on Dade County specifically and Florida in general, while Ms. Collins will discuss the needs as they relate to the area in Los Angeles.

In 1990, on April 1, 1990, IRCA legalization applicants constituted nearly one-eleventh of all the foreign-born in Dade County. At the same time, the foreign-born in Dade County, which is one of the fastest growing groups, make up 40 percent of Dade County's population.

According to current Immigration and Naturalization Service statistics, Dade County was listed as the primary residency site for 68,000 or nearly 43 percent of Florida's population for November 1989, formerly undocumented aliens. The most recent IRCA population figures, released in March 1990, noted that Florida had 162,000 such residents. Unfortunately, these demographics nor the INS adjudication rates were available on the county level. Consequently, we must use data from the November 1989 demographics.

The number of such aliens in Dade County could increase as the INS completes the adjudication process. In November 1989, the number of applicant cases adjudicated equaled approximately 62 percent for all applicants. The number of applicant cases pending equaled nearly 37 percent, which is an important item to remember in the drawdown costs for the counties for SLIAG.

The delays have resulted in aliens accessing services with applicant status and our education and public assistance providers consequently being unable to document when the applicant's status was finally adjusted to be reimbursed for services provided.

A second factor that has contributed to the slow drawdown of the SLIAG funds is the inherent difficulties involved in identifying the amount and cost of public assistance and public health services provided to legalized aliens, who are reluctant to identify themselves as such to our service providers.

The confidentiality restrictions set by IRCA have placed Dade County and other county programs at a disadvantage, and in some cases, in the impossible position of having to scramble after the fact to identify legalized aliens who use county services. A prime example is our county hospital, Jackson Memorial Hospital.

In 1988 and 1989, Jackson Memorial Hospital estimated the costs of providing services to be in the range of $16 million. The costs they were able to drawdown amounted to only $1.6 million and $3.4 million.

Based on our experience, we have to go back now into the case files to retrieve data whose value was unknown to us at the time we provided the service. There was no effective INS outreach program in effect in Florida, so many people did not identify themselves as ELA's, even though they were eligible for service.

Finally, the use of the cost documentation system, an alternative cost documentation system, understates or reduces the allowable level of cost that can be claimed.

Up to this point, our current costs are derived from actual case file reviews of known I-688 cardholders and cost documentation system tape runs on those with I-688A and I-689 documentation. We are planning tape construction of our total patient files because we believe that running tapes on all of our patient files would generate significantly higher costs. This example is consistent with the data from the NACO SLIAG survey that my colleague, Ms. Collins, will brief you on in a few minutes.

A similar process of CDS tape construction will be used in the public assistance area—emergency assistance, emergency homeless assistance, and family services. Again, we will recoup only a portion of our costs that are eligible for SLIAG funding.

In the education area, we are doing better in our adult education, ESL and civics educational programs. Again, as our educational outreach improves and the word gets around, and fears are decreased, we contemplate full utilization in our education programs. Although 75 percent of the IRCA population were employed at the time of their application, most of them had less than a grammar school education, according to INS data. As we in the South Florida area expand from a tourist base economy to a technically oriented economy, education is of primary importance to this population and thus an area where more SLIAG costs may be incurred.

The conclusion that we draw from our experiences, Mr. Chairman, is that the costs will actually be at higher levels as adjudicated individuals become eligible, fears decrease and information on services becomes common knowledge in the legalized alien community. Also costs will be at higher levels as programs adapt and adjust to the restrictive requirements of the SLIAG regulations. This can be seen in the increase of identified costs between fiscal year 1988 and fiscal year 1989. This increase should continue in the future.

Senator HARKIN. Mr. Avino, thank you very much.

Now we will turn to Ms. Collins.

STATEMENT OF VIRGINIA COLLINS

Ms. COLLINS. Thank you, Joaquin, and thank you, Mr. Chairman.

Los Angeles County joins Dade County and NACO in strongly opposing any SLIAG funding cuts. We believe the Federal Government should honor its commitment in IRCA to share financial responsibility for the costs of its decision.

As Senator Wilson said, Los Angeles County is greatly affected by legalization. Over 850,000 undocumented aliens applied for legal status in the county alone. Over 20 percent of all patients receiving health services from the county are legalized aliens, not counting the impact of their citizen children or undocumented alien family members.

They account for over 15,000 births and 88,000 prenatal visits each year. Such care helps prevent children from being born with developmentally disabling problems or with other preventable handicaps.

Contrary to HHS's assertion, demands are growing, particularly in the health area. They are not decreasing.

The low SLIAG outlays largely reflect delays in reimbursement of State and local costs, not the lack of such costs. For example, the $332 million in SLIAG outlays nationally, through 1989, reflected payments to Los Angeles County of only $32 million. We had $245 million in health and mental health costs incurred in the county in those 2 years.

The preliminary results of a recent NACO survey found that nationally there has been a significant delay in both the submission of county SLIAG claims and in the payment of those claims. Most counties still have pending claims for costs incurred in 1988-89, and intend to submit additional claims for those years.

Therefore, much of the unexpended balance for fiscal years 1988-89 are still needed to reimburse county costs for those same years.

As of today, Los Angeles County alone has claimed over $285 million, but has received only $154 million. We are operating on credit and faith.

My colleague, Mr. Helmar, will be also talking about an APWA survey dealing with these cost issues.

The administration's own Federal offset cost estimates suggest that SLIAG funds cannot be cut without hurting States and localities. If Federal legalized alien Medicaid costs alone are $160 million in 1991, then State and local costs must far exceed the request of $303 million.

Besides the State share of Medicaid costs, States and localities will incur a wide range of other health, mental health, public assistance, and educational costs which are reimbursable by SLIAG funds.

Los Angeles County's non-Medicaid legalized alien health costs alone could reach $160 million in fiscal year 1991.

Cutting SLIAG funds will not cause State and local legalized alien costs to disappear. Instead, it would unfairly shift costs onto States and counties or, as in the case of Los Angeles County, force steep cuts in services, adversely impacting all residents, both citizens and aliens alike.

The services which would be most affected are health, human services, and education, those costs which are reimbursable by SLIAG funds and which are of interest to this subcommittee.

In particular, SLIAG costs would worsen the financial plight of public hospitals which are struggling to cope with the growing numbers of uninsured patients. In fact, public hospitals are among the biggest recipients of SLIAG funds because many legalized aliens are uninsured.

For example, proposed SLIAG cuts could result in a loss of $100 million to Los Angeles County on an annual basis. This translates into a 40-percent reduction, or approximately 80,000 persons, for whom in-patient services in county hospitals, primarily emergency in nature, would not be available.

In addition, 51,000 persons would be impacted by out-patient reductions.

I might note that we are currently conducting hearings in Los Angeles County—they began yesterday—on the potential reductions in health services.

PREPARED STATEMENT

Mr. Chairman, we are not asking for expanded Federal financial responsibility. Instead, all we ask is that the Federal Government honor its existing commitment.

I thank you once again for the opportunity to testify before you.

Senator **HARKIN**. Thank you very much, Ms. Collins.

[The statement follows:]

STATEMENTS OF JOAQUIN G. AVINO AND VIRGINIA A. COLLINS

GOOD MORNING MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE. I AM JOAQUIN AVINO, COUNTY MANAGER OF DADE COUNTY, FLORIDA. MY COLLEAGUE IS VIRGINIA COLLINS OF THE COUNTY OF LOS ANGELES, CALIFORNIA. WE ARE HERE TODAY ON BEHALF OF THE NATIONAL ASSOCIATION OF COUNTIES* (NACo) TO TALK TO YOU ABOUT THE FISCAL YEAR (FY) 1991 APPROPRIATIONS FOR THE STATE LEGALIZATION IMPACT ASSISTANCE GRANT PROGRAM (SLIAG) AND TO DELINEATE IMPLEMENTATION PROBLEMS THAT COUNTIES ARE EXPERIENCING IN CARRYING OUT PROVISIONS OF THE FEDERAL IMMIGRATION REFORM AND CONTROL ACT (IRCA) OF 1986.

THE MAJOR POINTS OF OUR TESTIMONY INCLUDE THE FOLLOWING:

1. THE NATIONAL ASSOCIATION OF COUNTIES STRONGLY OPPOSES ANY REDUCTION IN SLIAG APPROPRIATIONS FOR FY 1991. THE FEDERAL GOVERNMENT SHOULD HONOR ITS FINANCIAL COMMITMENTS IN IRCA TO SHARE FINANCIAL RESPONSIBILITY FOR THE COSTS OF ITS NATIONAL IMMIGRATION POLICIES.

2. THE LOW FEDERAL SLIAG OUTLAYS REFLECT THE FACT THAT STATES AND COUNTIES HAVE YET TO BE REIMBURSED FOR MOST OF THEIR LEGALIZED ALIEN COSTS, NOT THE LACK OF SUCH COSTS.

3. THE DELAYS IN SLIAG PAYMENTS HAVE BEEN LARGELY DUE TO THE DIFFICULTY OF IDENTIFYING THE COST OF SERVICES PROVIDED TO LEGALIZED ALIENS WHO ARE RELUCTANT TO REVEAL THEIR IMMIGRATION STATUS AND TO HOW THE FEDERAL GOVERNMENT HAS IMPLEMENTED IRCA (E.G., ITS SLOW ADJUDICATION OF LEGALIZATION APPLICATIONS, DELAYS IN SLIAG PROGRAM

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*THE NATIONAL ASSOCIATION OF COUNTIES IS THE ONLY NATIONAL ORGANIZATION REPRESENTING COUNTY GOVERNMENT IN THE UNITED STATES. THROUGH ITS MEMBERSHIP, URBAN, SUBURBAN AND RURAL COUNTIES JOIN TOGETHER TO BUILD EFFECTIVE, RESPONSIVE COUNTY GOVERNMENT. THE GOALS OF THE ORGANIZATION ARE TO: IMPROVE COUNTY GOVERNMENT; ACT AS A LIAISON BETWEEN THE NATION'S COUNTIES AND OTHER LEVELS OF GOVERNMENT; ACHIEVE PUBLIC UNDERSTANDING OF THE ROLE OF COUNTIES IN THE FEDERAL SYSTEM.

IMPLEMENTATION, AND COMPLEX FEDERAL SLIAG COST DOCUMENTATION REQUIREMENTS).

4. THE DRAWDOWN OF SLIAG FUNDS WILL SIGNIFICANTLY INCREASE AS MORE COUNTIES CLAIM REIMBURSEMENT FOR PRIOR YEAR COSTS AND HAVE PROCEDURES IN PLACE FOR DOCUMENTING SLIAG-RELATED COSTS MORE QUICKLY. LEGALIZED ALIEN COSTS ALSO WILL BE HIGHER IN FY 1991 THAN IN PRIOR YEARS DUE TO THE DESIGN OF THE LEGALIZATION PROGRAM, PROJECTED INCREASES IN SERVICE UTILIZATION BY LEGALIZED ALIENS, AND INFLATION.

5. CUTTING FEDERAL SLIAG FUNDS WOULD NOT CAUSE STATE AND LOCAL LEGALIZED ALIEN COSTS TO DISAPPEAR. INSTEAD, IT WOULD UNFAIRLY SHIFT COSTS ONTO STATES AND COUNTIES, ADVERSELY AFFECTING ALL NEEDY RESIDENTS, CITIZENS AND ALIENS ALIKE.

6. THE SERVICES WHICH WOULD BE MOST AFFECTED BY SLIAG FUNDING CUTS ARE HEALTH, HUMAN SERVICES, AND EDUCATION, WHOSE COSTS ARE REIMBURSED BY SLIAG FUNDS. IT NOTABLY WOULD WORSEN THE PLIGHT OF ALREADY FINANCIALLY DISTRESSED LOCAL PUBLIC HOSPITALS WHICH ARE AMONG THE BIGGEST RECIPIENTS OF SLIAG FUNDS.

WHILE LOS ANGELES AND DADE COUNTIES ARE UNIQUE IN TERMS OF THE SIZE OF OUR IRCA POPULATIONS, OUR EXPERIENCES WITH SLIAG, NEVERTHELESS, ARE REPRESENTATIVE OF WHAT IS OCCURRING AT THE COUNTY LEVEL THROUGHOUT THE COUNTRY. LET ME EXPAND ON DADE COUNTY SPECIFICALLY AND FLORIDA IN GENERAL. MS. COLLINS WILL DISCUSS THE NEED FOR SLIAG FUNDING AND THE PRELIMINARY FINDINGS OF A NATIONAL SURVEY OF COUNTIES' EXPERIENCES WITH SLIAG IMPLEMENTATION CONDUCTED BY NACo.

AS OF APRIL 1, 1990, IRCA LEGALIZATION APPLICANTS CONSTITUTE NEARLY ONE-ELEVENTH OF ALL THE FOREIGN BORN IN DADE COUNTY. THE FOREIGN BORN, ONE OF THE FASTEST GROWING GROUPS, MAKE UP FORTY PERCENT OF DADE'S TOTAL POPULATION. ACCORDING TO

CURRENT IMMIGRATION AND NATURALIZATION SERVICE (INS) STATISTICS, DADE COUNTY WAS LISTED AS THE PRIMARY RESIDENCY SITE FOR 68,222 (OR NEARLY 43 PERCENT TO FLORIDA'S TOTAL NOVEMBER 1989 IRCA POPULATION OF 159,000) FORMERLY UNDOCUMENTED ALIENS. THE MOST RECENT IRCA POPULATION FIGURES, RELEASED IN MARCH 1990, NOTED THAT FLORIDA HAD 161,589 SUCH RESIDENTS. UNFORTUNATELY THESE DEMOGRAPHICS NOR THE INS ADJUDICATION RATES WERE AVAILABLE ON THE COUNTY LEVEL. CONSEQUENTLY, WE MUST USE DATA FROM THE NOVEMBER 1989 DEMOGRAPHICS. THE NUMBER OF SUCH ALIENS IN DADE COUNTY COULD INCREASE AS THE INS COMPLETES THE ADJUDICATION PROCESS. IN NOVEMBER 1989, THE NUMBER OF APPLICANT CASES ADJUDICATED EQUALED APPROXIMATELY 62 PERCENT FOR ALL APPLICANTS. THE NUMBER FOR APPLICANT CASES PENDING ADJUDICATION EQUALED NEARLY 37 PERCENT FOR ALL APPLICANTS AS OF NOVEMBER 1989. THE ISSUE OF INS ADJUDICATION IS IMPORTANT. THE DELAYS HAVE RESULTED IN ALIENS ACCESSING SERVICES WITH APPLICANT STATUS AND OUR EDUCATION AND PUBLIC ASSISTANCE PROVIDERS CONSEQUENTLY BEING UNABLE TO DOCUMENT WHEN THE APPLICANTS STATUS WAS FINALLY ADJUSTED TO BE REIMBURSED FOR SERVICES PROVIDED.

A SECOND FACTOR THAT HAS CONTRIBUTED TO THE SLOW DRAWDOWN OF SLIAG FUNDS IS THE INHERENT DIFFICULTIES INVOLVED IN IDENTIFYING THE AMOUNT AND COST OF PUBLIC ASSISTANCE AND PUBLIC HEALTH SERVICES PROVIDED TO LEGALIZED ALIENS WHO ARE RELUCTANT TO IDENTIFY THEMSELVES AS SUCH TO OUR SERVICE PROVIDERS. THE CONFIDENTIALITY RESTRICTIONS SET BY IRCA HAS PLACED DADE COUNTY AND OTHER COUNTY PROGRAMS AT A DISADVANTAGE, AND IN SOME CASES, IN THE IMPOSSIBLE POSITION OF HAVING TO SCRAMBLE AFTER THE FACT TO IDENTIFY LEGALIZED ALIENS WHO USE COUNTY SERVICES. A PRIME EXAMPLE IS OUR HOSPITAL -- JACKSON MEMORIAL HOSPITAL (JMH).

IN 1988 AND 1989, JMH ESTIMATED ITS COSTS FOR THE TARGET POPULATION AT $23 MILLION AND $33 MILLION, RESPECTIVELY. THE COSTS JMH IS CURRENTLY ABLE TO DOCUMENT TOTAL ONLY $1.6 MILLION AND $3.4 MILLION, RESPECTIVELY. WHY THE DISPARITY? SEVERAL REASONS:

1. SLOW START-UP HAD US BASING OUR ESTIMATES ON ASSUMPTIONS THAT DID NOT MAKE THE FINAL REGULATIONS, SUCH AS OBSTETRIC AND AFTER-CARE COSTS SIMILAR TO THE REFUGEE PROGRAM. THESE COSTS WERE EXCLUDED WHEN THE SLIAG REGULATIONS WERE RELEASED.

2. WE ARE ALSO HAVING TO GO BACK INTO CASE FILES TO RETRIEVE DATA WHOSE VALUE WAS UNKNOWN TO US AT THE TIME OF SERVICE.

3. THERE WAS NO EFFECTIVE INS OUTREACH PROGRAM IN EFFECT IN FLORIDA, SO MANY PEOPLE DID NOT IDENTIFY THEMSELVES AS ELA's EVEN THOUGH THEY WERE ELIGIBLE FOR SERVICES. AND, FINALLY,

4. USE OF THE COST DOCUMENTATION SYSTEM (CDS), AN ALTERNATIVE COST DOCUMENTATION SYSTEM, UNDERSTATES OR REDUCES THE ALLOWABLE LEVEL OF COST THAT CAN BE CLAIMED.

UP TO THIS POINT, OUR CURRENT COSTS ARE DERIVED FROM ACTUAL CASE FILE REVIEWS OF KNOWN I-688 CARDHOLDERS AND COST DOCUMENTATION SYSTEM (CDS) TAPE RUNS ON THOSE WITH I-688A AND I-689 DOCUMENTATION. WE ARE PLANNING TAPE CONSTRUCTION OF OUR TOTAL PATIENT FILES BECAUSE WE BELIEVE THAT RUNNING TAPES ON OUR TOTAL PATIENT FILES WILL GENERATE SIGNIFICANTLY HIGHER COSTS. THIS EXAMPLE IS CONSISTENT WITH THE DATA FROM THE NACo SLIAG SURVEY THAT MY COLLEAGUE MS. COLLINS WILL BRIEF YOU ON IN A FEW MINUTES.

A SIMILAR PROCESS OF CDS TAPE CONSTRUCTION WILL BE USED IN THE PUBLIC ASSISTANCE AREA (EMERGENCY ASSISTANCE, EMERGENCY HOMELESS ASSISTANCE AND FAMILY SERVICES). AGAIN, WE WILL RECOUP ONLY A PORTION OF OUR COSTS THAT ARE ELIGIBLE FOR SLIAG FUNDING.

IN THE EDUCATION AREA, WE ARE DOING BETTER IN OUR ADULT EDUCATION, ESL AND CIVICS EDUCATIONAL PROGRAMS. AGAIN, AS OUR EDUCATIONAL OUTREACH IMPROVES AND THE "WORD" GETS AROUND, AND FEARS ARE DECREASED, WE CONTEMPLATE FULL UTILIZATION IN OUR

EDUCATION PROGRAMS. ALTHOUGH 78 PERCENT OF THE IRCA POPULATION WERE EMPLOYED AT THE TIME OF THEIR APPLICATION, MOST HAD LESS THAN A GRAMMAR SCHOOL EDUCATION, ACCORDING TO INS DATA. AS WE IN THE SOUTH FLORIDA AREA EXPAND FROM A TOURIST BASE ECONOMY, TO A TECHNICALLY ORIENTED ECONOMY, EDUCATION IS OF PRIMARY IMPORTANCE TO THIS POPULATION AND THUS AN AREA WHERE MORE SLIAG COSTS MAY BE INCURRED.

THE CONCLUSION THAT WE DRAW, FROM OUR EXPERIENCES, MR. CHAIRMAN, IS THAT COSTS WILL BE AT HIGHER LEVELS AS ADJUDICATED INDIVIDUALS BECOME ELIGIBLE, FEARS DECREASE AND INFORMATION ON SERVICES BECOMES COMMON KNOWLEDGE IN THE LEGALIZED ALIEN COMMUNITY. ALSO COSTS WILL BE AT HIGHER LEVELS AS PROGRAMS ADAPT AND ADJUST TO THE RESTRICTIVE REQUIREMENTS OF THE SLIAG REGULATIONS. THIS CAN BE SEEN IN THE INCREASE OF IDENTIFIED COSTS BETWEEN FY 1988 AND FY 1989. THIS INCREASE SHOULD CONTINUE IN FUTURE YEARS. FURTHERMORE, NOTWITHSTANDING THE INFLATIONARY INCREASE OF MEDICAL CARE IN GENERAL AND THE COST OF INDIGENT CARE THAT IS THE RESPONSIBILITY OF COUNTY GOVERNMENTS, THE AGE PROFILE OF THE IRCA POPULATION (OVER 85 PERCENT ARE BETWEEN THE AGES OF 18 AND 54) LEADS US TO BELIEVE THAT CERTAIN MEDICAL COSTS WILL CONTINUE TO BE INCURRED, SUCH AS PRENATAL CARE, IMMUNIZATION COSTS, TUBERCULOSIS, AND SEXUALLY TRANSMITTED DISEASE TREATMENT COSTS.

BEFORE I END MY PORTION OF THIS STATEMENT AND TURN IT OVER TO MY COLLEAGUE, I WOULD INCLUDE ONE ADDITIONAL FACTOR THAT IMPACTS ON PROJECTED SERVICE UTILIZATION: THE TRANSITORY NATURE OF SPECIAL AGRICULTURAL WORKERS (SAWs).

FLORIDA HAS A HIGH PROPORTION OF SAWs, 70 PERCENT. WE KNOW THEY ARE A TRANSIENT AND LOW INCOME POPULATION, THUS, WE EXPECT HOUSING AND TRANSPORTATION COSTS TO CONTINUE TO BE CLAIMED. THIS COST IS FURTHER COMPOUNDED BY THE FACT THAT THE UTILIZATION RATE IS PRESUMED TO BE CONSIDERABLY HIGHER THAN THAT OF THE PRE-82s OR SECTION 245A APPLICANTS WHO ARE NOT NEARLY AS MOBILE AND REPRESENT THE GROUP WITH THE HIGHEST ADJUDICATION RATE. REGARDING TRANSIENCY, THE IRCA POPULATION COMES TO US ON THEIR

OWN, "TO JOIN RELATIVES, TO FIND A WARMER CLIMATE, FOR MORE MONEY, AND TO LEARN ENGLISH." THERE IS A SIMILAR IMPACT IN CALIFORNIA AND TEXAS COUNTIES WHICH INCIDENTLY CREATES MAJOR PLANNING PROBLEMS IN OUR SERVICE DELIVERY SYSTEMS.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY, MR. CHAIRMAN. THIS CONCLUDES MY PORTION OF THE TESTIMONY. MS. COLLINS WILL PRESENT THE BALANCE OF THIS STATEMENT.

THANK YOU JOAQUIN. AND THANK YOU MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE FOR THE OPPORTUNITY TO TESTIFY BEFORE YOU TODAY. I AM VIRGINIA COLLINS, DIVISION CHIEF FOR THE STATE AND FEDERAL PROGRAMS DIVISION IN THE CHIEF ADMINISTRATIVE OFFICE OF THE COUNTY OF LOS ANGELES.

LOS ANGELES COUNTY JOINS DADE COUNTY AND NACo IN STRONGLY URGING THAT SLIAG FUNDS APPROPRIATED IN FY 1991 UNDER THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 NOT BE REDUCED.

JUST AS THE FEDERAL GOVERNMENT HAS BUDGET PROBLEMS, SO DO COUNTY GOVERNMENTS. SIMILAR TO YOUR SUBCOMMITTEE, WE, TOO, ARE STRUGGLING FINANCIALLY TO ADDRESS UNMET NEEDS AND PROBLEMS ASSOCIATED WITH DRUG ABUSE, CHILDREN IN NEED, HOMELESSNESS, AIDS, AND POVERTY. OUR BUDGET PROBLEMS, HOWEVER, DIFFER IN ONE MAJOR RESPECT -- MUCH OF OURS ARE DUE TO FEDERAL IMMIGRATION POLICIES OVER WHICH WE HAVE NO CONTROL.

IRCA's LEGALIZATION PROVISIONS HAVE HAD AN ENORMOUS FISCAL IMPACT ON LOS ANGELES COUNTY. OVER 850,000 UNDOCUMENTED ALIENS (OR ONE-TENTH OF THE COUNTY'S TOTAL POPULATION) APPLIED FOR LEGAL STATUS. TO PUT THAT IN PERSPECTIVE, THE COUNTY'S IRCA POPULATION IS GREATER THAN THE TOTAL POPULATION OF ALL BUT A HANDFUL OF CITIES. LEGALIZED ALIENS NOW ACCOUNT FOR ROUGHLY 20 PERCENT OF ALL PATIENTS WHO RECEIVE MEDICAL CARE FROM THE COUNTY. WITHOUT SLIAG FUNDING, MOST OF THE COSTS WOULD BE BORNE BY THE COUNTY BECAUSE THE VAST MAJORITY OF LEGALIZED ALIEN PATIENTS ARE INDIGENT AND COVERED NEITHER BY MEDICAID NOR PRIVATE INSURANCE.

IN ESTABLISHING THE SLIAG PROGRAM, THE CONGRESS RECOGNIZED THAT THE FEDERAL GOVERNMENT SHOULD SHARE FINANCIAL RESPONSIBILITY

FOR THE COSTS OF ITS NATIONAL IMMIGRATION POLICIES. NACo SUPPORTED IRCA BASED ON THE UNDERSTANDING THAT SLIAG FUNDS WOULD BE FORTHCOMING TO HELP OFFSET COUNTIES' COSTS OF AIDING LEGALIZED ALIENS. NOW AFTER WE HAVE INCURRED HUNDREDS OF MILLIONS OF DOLLARS IN COSTS, THE FEDERAL GOVERNMENT SHOULD HONOR ITS FINANCIAL COMMITMENTS.

WE, THEREFORE, URGE THAT SLIAG FUNDING NOT BE CUT. WHEN COMBINED WITH THE "OFFSET" FOR FEDERAL LEGALIZED ALIEN COSTS, THE ADMINISTRATION'S PROPOSED FY 1991 AND 1992 SLIAG CUTS WOULD RESULT IN STATES RECEIVING LESS THAN $2.5 OF THE $4.0 BILLION IN TOTAL SLIAG APPROPRIATIONS CONTAINED IN IRCA. THIS WOULD RESULT IN A CORRESPONDING SHIFT IN LEGALIZED ALIEN COSTS FROM THE FEDERAL GOVERNMENT TO STATE AND LOCAL TAXPAYERS.

WE ARE CONCERNED THAT LOW SLIAG OUTLAYS IN FY 1988 AND 1989 ARE BEING MISINTERPRETED TO MEAN THAT SLIAG FUNDING CAN BE CUT WITHOUT HURTING STATE AND LOCAL GOVERNMENTS. THIS IS SIMPLY NOT TRUE. THE LOW OUTLAYS DO NOT REFLECT THE NEED FOR SLIAG FUNDS OVER THE LIFE OF THE PROGRAM. INSTEAD, THEY REFLECT DELAYS IN SLIAG PAYMENTS TO STATES AND THE FACT THAT ANNUAL LEGALIZED ALIEN COSTS ARE INITIALLY LOWER THAN IN LATER YEARS.

I WILL CITE THE PRELIMINARY FINDINGS OF A NACo SURVEY OF COUNTIES NATIONALLY TO ILLUSTRATE MY POINT. TO ASSESS COUNTIES' NEEDS FOR SLIAG FUNDING AND EXPERIENCES IN CLAIMING SLIAG REIMBURSEMENT FOR HEALTH AND MENTAL HEALTH COSTS, NACo SENT A QUESTIONNAIRE TO 38 COUNTIES WITH LARGE IRCA POPULATIONS IN 13 STATES. THE SURVEY IS STILL IN PROGRESS WITH RESPONSES RECEIVED FROM 23 COUNTIES WHICH TOGETHER ACCOUNT FOR OVER HALF OF THE NATION'S TOTAL IRCA POPULATION. THE PRELIMINARY FINDINGS BASED ON THE 23 RESPONSES INDICATE THAT:

-- COUNTIES HAVE NOT BEEN REIMBURSED FOR MOST OF THEIR SLIAG-RELATED HEALTH AND MENTAL HEALTH COSTS INCURRED TO DATE. THIS IS BECAUSE THERE HAS BEEN A SIGNIFICANT TIME LAG BETWEEN THE TIME PERIOD IN WHICH COSTS WERE INCURRED AND WHEN SLIAG CLAIMS FOR REIMBURSEMENT WERE SUBMITTED TO

STATES. THERE ALSO HAS BEEN A DELAY BETWEEN THE TIME SLIAG CLAIMS WERE SUBMITTED AND PAYMENTS RECEIVED.

-- NONE OF THE COUNTIES RECEIVED ANY SLIAG PAYMENTS FOR HEALTH COSTS INCURRED IN FY 1988 IN THAT SAME FISCAL YEAR. OVER THREE-FOURTHS OF THE SLIAG PAYMENTS TO COUNTIES FOR COSTS INCURRED IN FY 1988 AND 1989 HAVE BEEN RECEIVED IN FY 1990.

-- IN ADDITION, MOST COUNTIES STILL HAVE PENDING CLAIMS FOR COSTS INCURRED IN FY 1988 OR 1989, AND ONLY 5 OF THE 23 COUNTIES INDICATE THAT THEY DO NOT INTEND TO SUBMIT ADDITIONAL CLAIMS FOR COSTS INCURRED PRIOR TO FY 1990.

-- ONLY FIVE COUNTIES HAVE RECEIVED SLIAG PAYMENTS FOR ANY HEALTH COSTS INCURRED IN FY 1990. THIS IS BECAUSE MOST COUNTIES DID NOT SUBMIT THEIR FIRST CLAIMS FOR FY 1990 SLIAG-RELATED COSTS UNTIL MARCH 1990 OR LATER.

THE DELAYS MEAN THAT THE $332 MILLION IN TOTAL FY 1988 AND 1989 SLIAG OUTLAYS ONLY COVERED A SMALL PORTION OF COSTS INCURRED BY STATES AND COUNTIES IN THOSE YEARS. FOR EXAMPLE, THE $332 MILLION IN OUTLAYS INCLUDED PAYMENTS TO LOS ANGELES COUNTY FOR ONLY $31.9 MILLION OF THE $244.5 MILLION IN LEGALIZED ALIEN HEALTH AND MENTAL HEALTH COSTS INCURRED BY THE COUNTY IN FY 1988 AND 1989. THE BALANCE IN UNEXPENDED FY 1988 AND 1989 SLIAG FUNDS, THEREFORE, IS NEEDED TO COVER THE BALANCE IN UNREIMBURSED STATE AND LOCAL COSTS INCURRED IN THOSE YEARS.

MUCH OF THE DELAY IN OUTLAYS HAS BEEN DUE TO COMPLEX FEDERAL COST DOCUMENTATION GUIDELINES WHICH WERE NOT ISSUED UNTIL AFTER THE START OF FY 1989 AND WHICH REQUIRE COUNTIES AND OTHER SERVICE PROVIDERS TO SET UP SPECIAL DATA COLLECTION SYSTEMS TO DOCUMENT COSTS BEFORE RECEIVING SLIAG FUNDS. THE SLIAG COST DOCUMENTATION SYSTEM (CDS), DEVELOPED BY HHS TO ASSIST STATES, ONLY RECENTLY BECAME FULLY OPERATIONAL. IN THE NACo SURVEY, COUNTIES MOST COMMONLY CITED THE FOLLOWING REASONS FOR THE TIME LAG BETWEEN WHEN COSTS WERE INCURRED AND WHEN SLIAG CLAIMS WERE SUBMITTED:

-- DELAY IN ISSUANCE OF FEDERAL AND/OR STATE REGULATIONS AND INSTRUCTIONS;

-- DIFFICULTY OF IDENTIFYING ELIGIBLE LEGALIZED ALIEN (ELA) RECIPIENTS AT THE TIME SERVICES ARE RENDERED; AND

-- NEED TO DEVELOP AND IMPLEMENT NEW PROCEDURES FOR IDENTIFYING ELA RECIPIENTS.

IT IS DIFFICULT FOR COUNTIES TO IDENTIFY ELA RECIPIENTS BECAUSE THEY CANNOT REQUIRE PERSONS TO PROVIDE PROOF OF IMMIGRATION STATUS AS A CONDITION OF ELIGIBILITY FOR RECEIVING ALL HEALTH OR MENTAL HEALTH SERVICES -- ESPECIALLY IN THE CASE OF EMERGENCY CARE AND PUBLIC HEALTH SERVICES. THEREFORE, COUNTIES HAD TO DEVELOP AND IMPLEMENT NEW PROCEDURES FOR IDENTIFYING ELA RECIPIENTS IN ORDER TO RECEIVE SLIAG FUNDS. THEY HAVE ALSO HAD TO RETROSPECTIVELY DOCUMENT SLIAG REIMBURSABLE COSTS, WHICH ALSO HAS CONTRIBUTED TO THE DELAYS IN THE DRAWDOWN OF SLIAG FUNDS.

OVER HALF OF THE COUNTIES IN THE SURVEY INDICATE THAT THEY ARE USING CDS, WHICH IDENTIFIES ELAs USING SOCIAL SECURITY NUMBERS OF RECIPIENTS, TO CALCULATE THEIR SLIAG-RELATED COSTS. LOS ANGELES COUNTY AND A FEW OTHER COUNTIES IDENTIFY ELA RECIPIENTS BY CONDUCTING STATISTICALLY VALID SAMPLES OF THEIR RECIPIENT POPULATIONS, WHICH IS AN ALLOWABLE METHOD UNDER FEDERAL SLIAG REGULATIONS.

ONE POSITIVE NOTE IS THAT MOST OF THE COUNTIES INDICATE THAT THEY WILL BE SUBMITTING SLIAG CLAIMS SOONER THAN IN THE PAST -- PRIMARILY BECAUSE THEY NOW HAVE PROCEDURES IN PLACE FOR DOCUMENTING THEIR SLIAG-RELATED COSTS AND HAVE GREATER EXPERIENCE IN PREPARING CLAIMS. THIS SUGGESTS THAT THE DRAWDOWN OF SLIAG FUNDS IS LIKELY TO BE FASTER IN THE FUTURE THAN IN THE PAST.

THE LOW SLIAG OUTLAYS IN FY 1988 AND 1989 ALSO REFLECT THE FACT THAT ANNUAL LEGALIZED ALIEN COSTS ARE INITIALLY LOWER AND WILL GROW OVER TIME, LARGELY DUE TO THE DESIGN OF THE LEGALIZATION PROGRAM. BECAUSE ALIENS WERE APPLYING FOR LEGAL STATUS IN FY 1988 AND 1989, THE AVERAGE NUMBER OF ELIGIBLE LEGALIZED ALIENS (ELAs) WAS LOWER. THREE-FOURTHS OF ALL APPLICATIONS FOR ELA STATUS WERE NOT FILED UNTIL AFTER FY 1988 BEGAN, AND ONE-SEVENTH OF ALL APPLICATIONS WERE NOT FILED UNTIL AFTER FY 1989 BEGAN.

THE USE OF SERVICES BY LEGALIZED ALIENS ALSO WILL INCREASE IN FY 1990 AND 1991 AS THEY ADJUST FROM TEMPORARY TO PERMANENT RESIDENT STATUS. FOR EXAMPLE, IRCA PROVIDES THAT TEMPORARY RESIDENTS CAN BE DENIED PERMANENT STATUS ON "PUBLIC CHARGE" GROUNDS IF THEY RECEIVE PUBLIC ASSISTANCE. AS PERMANENT RESIDENTS, HOWEVER, THEY CAN RECEIVE WELFARE WITHOUT THE RISK OF LOSING THEIR LAWFUL IMMIGRATION STATUS.

FINALLY, EVEN IF THE USE OF SERVICES BY LEGALIZED ALIENS REMAINS CONSTANT, INFLATION CAUSES STATE AND LOCAL LEGALIZED ALIEN COSTS TO INCREASE OVER THE YEARS -- ESPECIALLY FOR THE COST OF HEALTH CARE, WHICH IS THE SINGLE BIGGEST COST. THAT IS, IN FY 1991, IT IS LIKELY TO COST OVER 25 PERCENT MORE THAN IN FY 1988 TO PROVIDE THE SAME UNIT OF HEALTH CARE TO A LEGALIZED ALIEN PATIENT.

THE ADMINISTRATION'S OWN FEDERAL "OFFSET" COST ESTIMATES INDICATE THAT SLIAG FUNDS CANNOT BE CUT WITHOUT SHIFTING COSTS ONTO STATES AND LOCALITIES. HHS ESTIMATES THAT FEDERAL LEGALIZED ALIEN MEDICAID COSTS WILL INCREASE FROM $30 MILLION IN FY 1988 TO $160 MILLION IN FY 1991. IF FEDERAL COSTS ARE GROWING SO FAST, SO MUST STATE AND LOCAL COSTS.

BASED ON HHS' ESTIMATE OF $160 MILLION IN FEDERAL MEDICAID COSTS, TOTAL STATE AND LOCAL SLIAG REIMBURSABLE COSTS IN FY 1991 WOULD FAR EXCEED THE ADMINISTRATION'S REQUEST OF $302.6 MILLION IN FY 1991 SLIAG FUNDS. THE STATE SHARE OF MEDICAID COSTS ALONE WOULD EXCEED $160 MILLION BECAUSE THE ESTIMATED FEDERAL MEDICAID COSTS DO NOT INCLUDE COSTS ON SPECIAL AGRICULTURAL WORKERS. ON TOP OF THOSE COSTS, SLIAG FUNDS ARE NEEDED TO REIMBURSE A WIDE RANGE OF OTHER HEALTH, MENTAL HEALTH, WELFARE, AND EDUCATIONAL COSTS INCURRED BY STATES AND LOCALITIES. AS AN EXAMPLE, LOS ANGELES COUNTY'S LEGALIZED ALIEN INDIGENT HEALTH COSTS ALONE COULD REACH $160 MILLION IN FY 1991.

CUTTING SLIAG FUNDS WILL NOT CAUSE STATE AND LOCAL LEGALIZED ALIEN COSTS TO DISAPPEAR. INSTEAD, IT MEANS THAT STATES AND LOCALITIES WILL HAVE TO ABSORB THE COSTS. IN ALL

COMMUNITIES, IT WILL MEAN LESS RESOURCES WITH WHICH TO MEET THE NEEDS OF RESIDENTS. IN SOME AREAS SUCH AS OURS, IT WILL FORCE DEEP CUTS IN SERVICES WHICH WILL ADVERSELY AFFECT ALL NEEDY RESIDENTS, ALIENS AND CITIZENS ALIKE.

THE KINDS OF SERVICES WHICH WOULD BE THE MOST AFFECTED ARE HEALTH, HUMAN SERVICES, AND EDUCATIONAL SERVICES WHOSE COSTS ARE REIMBURSED BY SLIAG FUNDS AND WHICH ARE OF INTEREST TO YOUR SUBCOMMITTEE. FOR EXAMPLE, LOCAL PUBLIC HOSPITALS ARE AMONG THE BIGGEST RECIPIENTS OF SLIAG FUNDS. MOST OF THE COUNTIES WITH LARGE IRCA POPULATIONS OPERATE PUBLIC HOSPITALS WHICH PROVIDE MEDICAL CARE TO ALL NEEDY RESIDENTS. IN FACT, THE COUNTIES WITH THE BIGGEST IRCA POPULATIONS IN THE FIVE STATES WITH THE MOST LEGALIZED ALIENS HAVE THEIR OWN PUBLIC HOSPITALS [i.e., LOS ANGELES, CA; DADE (MIAMI), FL; COOK (CHICAGO), IL; NEW YORK, NY; AND HARRIS (HOUSTON), TX]. THOSE VERY SAME COUNTIES ARE HEAVILY IMPACTED BY THE AIDS EPIDEMIC -- TOGETHER THEY ACCOUNT FOR OVER ONE-THIRD OF ALL AIDS CASES NATIONALLY.

CUTTING SLIAG FUNDS WILL ONLY WORSEN THE PLIGHT OF THESE ALREADY FINANCIALLY DISTRESSED PUBLIC HOSPITALS. IF EMERGENCY ROOMS ARE CLOSED DUE TO SLIAG CUTS, ALL LOCAL RESIDENTS WOULD BE AFFECTED. LESS SLIAG FUNDS ALSO WILL MEAN LESS FUNDS FOR AIDS TESTING AND TREATMENT, PRENATAL CARE, AND OTHER NEEDED SERVICES, ALL OF WHICH WILL AFFECT THE ENTIRE COMMUNITY.

DURING THE PAST DECADE, COUNTIES THROUGHOUT AMERICA HAVE NOT ONLY HAD TO ABSORB FEDERAL BUDGET CUTS AS HAVE OTHER LOCAL GOVERNMENTS, BUT HAVE ALSO HAD TO ABSORB TREMENDOUSLY INCREASED COSTS DUE TO FEDERAL IMMIGRATION POLICIES OVER WHICH WE HAVE NO CONTROL. MR. CHAIRMAN, WE ARE NOT ASKING FOR EXPANDED FEDERAL FINANCIAL RESPONSIBILITY IN ADDRESSING CERTAIN NEEDS OR PROBLEMS. INSTEAD, ALL WE ASK FOR IS THAT THE FEDERAL GOVERNMENT HONOR ITS EXISTING FINANCIAL COMMITMENTS.

WE THANK YOU ONCE AGAIN FOR THE OPPORTUNITY TO TESTIFY BEFORE YOU. UPON COMPLETION OF THE NACO SURVEY, WE WOULD BE PLEASED TO FORWARD COPIES OF OUR FINDINGS TO THE COMMITTEE.

STATEMENT OF KEVIN W. CONCANNON, DIRECTOR, OREGON DEPARTMENT OF HUMAN RESOURCES, AND CHAIRPERSON, AMERICAN PUBLIC WELFARE ASSOCIATION NATIONAL COUNCIL OF STATE HUMAN SERVICE ADMINISTRATORS TASK FORCE ON IMMIGRATION REFORM

Senator **Harkin**. Now we will go to Kevin Concannon, director of the Oregon Department of Human Resources and chairman of the American Public Welfare Association.

Mr. Concannon.

Mr. **Concannon**. Thank you very much, Senator Harkin.

Mr. Chairman, I would like, as well on behalf of State governments, to thank you and the committee for this opportunity to testify before you today on the impact of these proposed rescissions and reductions in SLIAG funding from a State agency point of view.

As States, we are opposed to reductions in SLIAG funding because such reductions will result in painful reductions to services directed at newly legalized persons.

SLIAG is a financial reimbursement mechanism, which provides partial fiscal reimbursement to States and localities for allowable education, public assistance, and health services rendered to persons legalized under IRCA.

PREPARED STATEMENTS

I would like at this point, Mr. Chairman, to introduce for the record testimony on behalf of the National Council of State Legislatures and the National Governors Association, which, by and large, reflects the views of both the executive and legislative branches at the State level.

Senator **Harkin**. We will put those in the record right after your testimony.

Mr. **Concannon**. Thank you.

[The statements follow:]

STATEMENT OF KEVIN W. CONCANNON

I. INTRODUCTION

Mr. Chairman and members of the Subcommittee, I am pleased to have the opportunity to provide you with the perspectives of state governments and other entities regarding funding needs of the State Legalization Impact Assistance Grant (SLIAG) program, a program established by Section 204 of the Immigration Reform and Control Act of 1986 (IRCA). I am Kevin W. Concannon, Director of the Oregon Department of Human Resources and Chairperson of the American Public Welfare Association (APWA) Task Force on Immigration Reform. I am testifying today on behalf of APWA which is a 59-year-old nonprofit, bipartisan organization representing the 50 state human service departments, 800 local public welfare agencies and 5,000 individuals nationwide. The Immigration Task Force is comprised of state and local SLIAG administrators, service providers, and other interested parties.

The composition of our Task Force gives us a unique and well informed perspective on issues related to SLIAG. These perspectives, which I will share with you today, are the consensus views of the Task Force relative to the SLIAG program, a program of vital concern to all participating jurisdictions. These concerns have previously been shared with other Congressional committees which are dealing with issues of immigration reform.

II. OVERVIEW

The State Legalization Impact Assistance Grant (SLIAG) program is a financial reimbursement mechanism which provides partial reimbursement to states and localities for education, public assistance and health services rendered to newly-legalized persons (NLP's) - those persons who have been granted legal status under the amnesty provisions of the Immigration Reform and Control Act of 1986 (IRCA). SLIAG also provides limited funding for outreach to newly-legalized persons and for activities related to IRCA's antidiscrimination provisions.

SLIAG reimbursement for public health and public assistance services is limited to existing, generally available programs that have an identifiable state or local government revenue source. Educational services, which include the English/civics courses needed by certain newly-legalized persons in order to adjust to permanent residency, may be new services specifically targetted to NLP's, although reimbursement is limited to $500 per person per year. Funding for the outreach and anti-discrimination activities is limited to the greater of $100,000 or 1% of a state's SLIAG allotment for each year beginning with FY 1989, for each of these two activities (both were authorized under the Immigration Nursing Relief Act of 1989). All SLIAG-reimbursable costs must be carefully documented; in many cases, individual tracking of newly-legalized clients is necessary.

The original design of the SLIAG program was a $4 billion appropriation to be allocated to the states in increments of $1 billion a year for four federal fiscal years (FFY 1988-1991) and to be spent over seven federal fiscal years (FFY 1988-1994). This design, which was a compromise between the Senate's proposal of a capped block grant program and the House's proposal of a 100% reimbursable categorical grant program, was sound.

The SLIAG program offered two firm commitments, first, that all newly legalized persons would have access to basic health and public assistance services as well as an opportunity to minimally educate themselves to assure meeting the IRCA requirements for permanent residency and ultimately becoming fully participating members of their respective communities. Second, the compromise provided states and localities a financial resource to partially offset the cost of service delivery to this new population. These commitments were the critical elements of the negotiated federal-state-local partnership that finally allowed for the passage of IRCA.

III. THE SLIAG MECHANISM

A. SLIAG Financial Data

SLIAG is a financial reimbursement mechanism which provides partial fiscal reimbursement to states and localities for allowable education, public assistance and health services rendered to persons legalized under IRCA. Reimbursement is limited to programs that have an identifiable state or local government revenue source. All SLIAG-reimbursable costs must be carefully documented, and in fact many states will not draw down SLIAG funds until the U.S. Department of Health and Human Services (HHS) has approved the costs.

The SLIAG program is complex and difficult to understand. SLIAG is still relatively new and is still in various stages of development for service delivery and cost documentation. The complexity is made more acute by the unavoidable differences among states in configuring their program, and the broad range of services potentially covered.

In order to understand the states' need for SLIAG funds, it is critical that the financial data elements be clearly understood, distinguished from each other, and collectively analyzed. There are five classes of SLIAG financial data:

1. State Allocation

This is SLIAG revenue to the states. The amount of the annual SLIAG allocation for all states is determined by subtracting federal administrative costs and the federal offset (the federal share of Medicaid and food stamps for newly legalized persons) from $1 billion. Each state receives a share of the aggregate SLIAG allocation based on a formula that takes into account the relative number of legalized persons in each state and the relative costs of allowable services to be provided by the state. States have four years of revenue to manage and spend over seven years. Allocations are made in four federal fiscal years (1988-1991) with the ability for states to fully carry forward unobligated allocations until September, 1994.

2. State Costs

These are costs incurred by state and local governments in providing SLIAG allowable services to newly-legalized persons, along with the state and local SLIAG related administrative costs. States may only claim net costs, which excludes federal costs and client fees.

State costs are recoverable only if and to the degree they are documented appropriately through a number of complex methodologies that must be approved by the federal government in annual reports submitted three months after the close of each respective federal fiscal year.

3. State SLIAG Expenditures

These are SLIAG funds actually used by states to pay for SLIAG-reimbursable services and for SLIAG administrative costs. Most state SLIAG expenditure plans do not cover all potential programs, and in some states they do not cover the categories identified in their applications and cost reports. States purposely exclude some programs to concentrate their SLAIG resources on "highly essential" service areas.

4. Drawdowns

These are SLIAG funds actually transferred out of the federal treasury to cover state SLIAG expenditures. The federal government does not send cash as part of the SLIAG allocation process. Instead, states draw down SLIAG funds against their allocation at the time they actually pay claims.

There is a significant lag between the time services are provided and when states receive, review, and pay claims for reimbursement to service providers. State SLIAG drawdowns do not reflect accrued service liability.

5. SLIAG Claims Pipeline

This represents states' needs to draw down SLIAG funds within the near future. The SLIAG claims pipeline is based on claims that states have received from providers and are in the process of reviewing, approving and paying.

There is a great temptation to focus solely on one or some of these data elements in projecting the level of SLIAG funds states need. As an example, comparing the FFY 1988 state SLIAG allocation to FFY 1988 state expenditures ignores the front-loaded nature of the program. Focusing on the amount of state SLIAG drawdowns fails to recognize the service liabilities that states have accrued and must pay in the future. This acutely underestimates how much SLIAG funding states really need to provide services.

B. Implementation Obstacles

1. Program Start Up Delays

As expected, initial SLIAG spending was prolonged by a delay in the issuance of federal regulations and cost documentation requirements. Federal SLIAG regulations were not issued until the second quarter of federal fiscal year 1988, and the allocation and availability of funds was not made to states until the last quarter of federal fiscal year 1988. Policy guidance on documentation requirements for cost reimbursement came after the conclusion of the first federal fiscal year.

These delays impeded the ability of states, localities and community providers to implement the SLIAG program. The delays led to slow identification of state costs and, therefore, impeded drawdowns. States, localities and service providers are now developing the capacity, through the exploration and sharing of alternative cost documenting techniques, to retroactively identify and recover certain costs for the early years of the program.

2. INS Processing and Legalization Programs

Eligible persons applied for amnesty over a 19 month period, May 1987 to November 1988. Over 430,000 of the 3 million persons who applied for legalization did so in federal fiscal year 1989. Of the 3 million applicants, INS has yet to finalize processing on over 630,000 persons who filed timely applications.

Full eligibility for SLIAG services and cost reimbursement is tied to the legalization program and the legal status of an alien. Eligible persons must have completed the first phase of legalization by receiving temporary resident status (which occurs subsequent to receiving employment authorization) in order for states to be fully eligible for cost reimbursement under SLIAG (this standard is not applicable to public health services). Due to retroactive cost claiming difficulties, this restriction has resulted in large amounts of unreimbursed expenditures for legitimate public assistance and education costs.

The overlaps in the legalization application periods and the commencement of SLIAG service eligibility, coupled with delays in legalization processing, acutely limited states' abilities to document SLIAG eligible clients and identify appropriate costs in the early years of the SLIAG program. While some of these costs will never be claimed, others are now being identified through newly-implemented cost documenting techniques.

3. Lack of Public Education about SLIAG

While SLIAG provided states with the ability to partially cover the costs of rendering certain services to the newly legalized population, IRCA itself created confusion and provided no resources to educate the newly legalized about available services. IRCA provided a basis for the exclusion of aliens from legalization if they accessed certain public assistance programs, as they might be deemed likely to become a "public charge." The inability of the federal government to clearly articulate which services might give rise to this presumption of public charge deterred a significant number of eligible aliens from accessing any social program (including some vital health programs) in order to minimize the possibility of being unable to legalize.

This deterrent, in conjunction with the general reticence on the part of eligible persons to access services (due to unfamiliarity with the services, fear of exposing non-eligible family members, etc.) further added to the initially low utilization rates. In recognition of this acute deficiency in IRCA, Congress passed, and the President signed into law, the Immigration Nursing Relief Act of 1989 (P.L. 101-238) which expressly allowed for the use of SLIAG funds to conduct outreach to the eligible population regarding SLIAG services and the need for each person to complete the legalization process. As outreach programs continue to be instituted by the states, greater utilization of SLIAG reimbursable services is occurring.

4. Confidentiality and Documentation Impediments

Confidentiality and documentation concerns have been and continue to be problematic for states, localities and service providers. In order for a program to be eligible for SLIAG reimbursement, the program must establish, to the satisfaction of HHS, a cost documenting methodology that will assure that SLIAG costs are claimed only on behalf of eligible persons. The general class of programs that a service falls into, e.g. public health, public assistance or education, determines what documentation methodologies are allowable.

For most programs, the INS documents (temporary resident cards, etc.) which identify NLP's must be viewed, recorded, tracked and made discernible from other records in order for the service provider to be reimbursed with SLIAG funds. This requirement is apart from, and in many instances beyond, normal record-keeping requirements of service providers. Further, because of the various steps within the phases of legalization, service providers need to become intimately familiar with INS documents in order to distinguish SLIAG eligible clients from others, as well as to distinguish which services can be rendered depending upon the document presented.

In some programs the mere request for documentation is problematic in that it acts as a deterrent to service utilization. In addition, divulging such information by providers of certain programs of a sensitive nature (i.e. mental health or substance abuse services) creates legitimate concerns over breaching state or federal confidentiality laws and regulations. In some jurisdictions, these programs have opted to not participate in the SLIAG program because of the high risk. Despite this continuing problem, states are now developing the capacity, through exploration of alternative cost documenting techniques, to retroactively and prospectively identify those state and local costs for such programs.

IV. RECOMMENDATION

Congress Should Maintain Full SLIAG Funding As Provided For In IRCA

States will spend the full amount of dollars appropriated in IRCA for SLIAG during the seven year life of the program. In fact, state costs for SLIAG-related services to newly legalized persons will exceed the allocations made available to the states through SLIAG. However, it has always been understood that SLIAG was not intended to cover 100% of all costs. Therefore, any reduction in the appropriation will put the newly legalized population further at risk; disrupt state planning and service delivery; create a financial burden for states and localities (impacting the entire service population including citizens); and acutely strain the federal-state-local partnership established by SLIAG.

The SLIAG program has evolved as fashioned by Congress. Congress presumed that a slow start up would be experienced, as would be expected with any new federal program. Congress also perceived that costs would escalate with time as the program evolved and that costs would continue beyond the years of appropriations. Cognizant of these factors, Congress made a single appropriation in IRCA for SLIAG, allocating the resources over four years and allowing for a seven year spending cycle. Current expenditure and program utilization trends demonstrate that the SLIAG program is evolving as designed. Therefore, the program resources should be left unaltered so that states and localities can smoothly manage the remainder of the program.

Current utilization and expenditure trends demonstrate that states and localities are in need of full funding for SLIAG. This need is measured against current known factors of service population and allowable services. This amounts to not more that $1,600 per person for health services, education and public assistance over the five year eligibility period. This calculation is based on a conservative estimate that only 2.5 million of the more that 3 million legalization applicants will successfully complete the legalization process.

Beyond the currently known factors, there are a series of additional unknown and uncontrollable items pending that may have an acute impact on the SLIAG program, both in terms of service utilization and in covering the costs of those services. These factors include: the pending Replenishment Agricultural Workers (RAW) legalization program that potentially may admit several thousand additional eligible persons to this country in the next three years, markedly increasing the service population nationwide; current proposals for "family fairness" which would allow the non-legalized family members of newly legalized persons to obtain lawful status and, under a current House legislative proposal, be potentially eligible for SLIAG reimbursable services; public outreach campaigns, which are currently gearing up as a result of the authority given to states in the Immigration Nursing Relief Act of 1989 and which will increase the population's knowledge of and access to SLIAG reimbursable services; and, pending litigation in several jurisdictions which may further increase the eligible service population residing in our communities. Standing alone, each of these alternatives will have more than a ripple impact on the individual and collective SLIAG programs nationwide. In the aggregate or in any combination, the impact would be significant.

SLIAG was a critical component of the IRCA legislation. Congress struggled at length with SLIAG to assure that a reasonable compromise was reached between the alternatives posed for the design of the program. States, localities, and advocacy groups were instrumental in aiding Congress to craft this compromise. The partnership that resulted would be seriously jeopardized by reneging on the SLIAG agreement.

V. CONCLUSION

Despite significant implementation obstacles, SLIAG is working as designed. Services are being accessed, and assistance in areas of acute need is being rendered to the newly legalized residents of our communities. In order to fulfill the promise made to, and the dreams sought by, these newly legalized persons, it is critical that full SLIAG funding be retained. States and localities have and will continue to demonstrate need for and maximum use of this resource. We therefore urge the Subcommittee to propose full retention of SLIAG funding for the FFY 1991 budget and assure that the repayment amendment for the dollars reduced from FFY 1990 is left unaltered.

STATEMENT OF NATIONAL CONFERENCE OF STATE LEGISLATURES

GOOD MORNING, MR. CHAIRMAN, SENATOR SPECTOR AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE. THE NATIONAL CONFERENCE OF STATE LEGISLATURES (NCSL) APPRECIATES THIS OPPORTUNITY TO SUBMIT TESTIMONY FOR THE RECORD AS WE WERE UNABLE TO TESTIFY TODAY. WE ALSO THANK YOU, MR. CHAIRMAN, FOR CONVENING THIS HEARING AND FOR YOUR TENACITY IN EXAMINING THIS VERY COMPLICATED ISSUE THAT IS SO IMPORTANT TO STATES AND TO NEWLY LEGALIZED PERSONS.

THE NATIONAL CONFERENCE OF STATE LEGISLATURES IS A NON-PARTISAN ORGANIZATION CREATED TO SERVE THE LEGISLATORS AND STAFFS OF THE NATION'S 50 STATES, ITS COMMONWEALTHS AND TERRITORIES. AS STATE-FEDERAL PARTNERSHIPS ARE CRITICAL FOR THE EFFECTIVE DELIVERY OF CRITICAL HUMAN SERVICES PROGRAMS, NCSL WAS AN ACTIVE PARTICIPANT IN THE COMPROMISE THAT ENABLED THE FEDERAL GOVERNMENT TO ENACT THE IMMIGRATION REFORM AND CONTROL ACT OF 1986. NCSL BELIEVES THAT CONGRESS SHOULD NOT ABANDON THIS COMMITMENT AND CONTINUE TO REIMBURSE STATES AT THE AUTHORIZED LEVEL FOR EXPENSES INCURRED TO PROVIDE ESSENTIAL SERVICES TO HELP NEWLY-LEGALIZED ALIENS BECOME PRODUCTIVE MEMBERS OF OUT SOCIETY.

ALTHOUGH STATES ARE FULLY SUPPORTIVE OF THE HUMANITARIAN OBJECTIVES ACHIEVED THROUGH THE NATION'S IMMIGRATION PROGRAMS, THESE PROGRAMS FUNCTION AS A MATTER OF NATIONAL DECISION MAKING. THEREFORE DOMESTIC COSTS OF SUCH PROGRAMS OUGHT TO BE DIRECTLY BORNE BY THE FEDERAL GOVEERNMENT.

MR. CHAIRMAN, STATE LEGISLATORS URGE YOU AND THE APPROPRIATIONS COMMITTEE TO PROVIDE FOR FULL FUNDING IN FISCAL YEAR 1991 FOR THE STATE LEGALIZATION IMPACT ASSISTANCE GRANTS (SLIAG) AS AUTHORIZED AND APPROPRIATED AT $1 BILLION UNDER THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA).

AS YOU KNOW, SLIAG WAS CREATED AS PART OF THE IRCA COMPROMISE. THE PRESIDENT AND CONGRESS RECOGNIZED THAT THE COSTS ASSOCIATED WITH THIS ONE-TIME AMNESTY AND LEGALIZATION TO BE A FEDERAL RESPONSIBILITY. SLIAG WAS DESIGNED TO REIMBURSE STATES AND LOCAL GOVERNMENT SFOR HEALTH, EDUCATION, AND PUBLIC ASSISTANCE AND OTHER SERVICES TO NEWLY LEGALIZED PERSONS. CONGRESS ALSO RECOGNIZED THAT MOST SPENDING WOULD OCCUR IN THE LATTER PART OF THE LEGALIZATION PROCESS AND ALLOWED THE FOUR YEARS OF SLIAG FUNDS (AUTHORIZED AT $1 BILLION PER YEAR) TO BE SPENT OVER A SEVEN YEAR PERIOS. AS ANTICIPATED, THE DRAWDOWN OF FUNDS HAS BEEN SLOW.

IT IS PRECISELY THIS FISCAL DESIGN OF THE SLIAG FUND THAT HAS ERRODED THE CONGRESSIONAL COMMITMENT TO FULLY FUNDING THIS PROGRAM. DESPITE THE FACT THAT STATES FULLY EXPECT TO SPEND ALL SLIAG FUNDS IN THE TIME FRAME STIPULATED AND ARE REQUIRED BY IRCA TO PROVIDE COSTLY SERVICES, THERE APPEARS TO BE CONCERN THAT THE UNSPENT BALANCE IS EVICENCE THAT ADDITIONAL FUNDING IS NOT NEEDED. WHEN THE FEDERAL GOVERNMENT ONLY REVIEW ACTUAL SLIAG FUNDS DISBURSED, IT IGNORES THE SERVICE LIABILITIES THAT HAVE ACCRUED AND STATE PROJECTIONS THAT INCREASED EXPENDITURES ARE EXPECTED. EXPANDED USES OF SLIAG FUNDING FOR BROAD-BASED OUTREACH AND ANTIDISCRIMINATION INITIATIVES HAVE ADDED TO THE COSTS OF THE PROGRAM AS WELL AS THE UNANTICIPATED HEALTH AND EDUCATION DEFICITS OF THE NEWLY-LEGALIZED POPULATION.

CHANGING THE RULES IN THE MIDDLE OF THE GAME DESTROYS THE FEDERAL-STATE-LOCAL ALLIANCE THAT CREATED SLIAG, DEPLETES STATE AND LOCAL TREASURIES, AND WORST OF ALL, DENIES SERVICES TO ELIGIBLE LEGALIZED ALIENS THAT ARE CRITICAL TO THEIR CHANCES OF BECOMING PRODUCTIVE, CONTRIBUTING MEMBERS OF OUR COMMUNITITES.

STATE LEGISLATORS SHARE YOUR CONCERN ABOUT THE BUDGET DEFICIT. STATE APPROPRIATION COMMITTEE'S ALSO MUST MAKE CRITICAL FUNDING CHOICES IN STATE HEALTH AND HUMAN SERVICES FUNDING. SLIAG IS ESSENTIAL FOR PROVIDING NEEDED SERVICES TO A NEW POPULATION. CUTTING FUNDING IN THIS AREA WILL IMPACT SERVICE DELIVERY NOT ONLY FOR NEWLY-LEGALIZED PERSONS, BUT FOR ALL RECIPIENTS OF STATE SOCIAL SERVICES PROGRAMS. STATES ARE UNABLE TO MAKE UP THE DIFFERENCE WHEN FEDERAL FUNDING IS ELIMINATED.

AS GAO WILL CONFIRM TODAY, THERE IS NO INDICATION THAT SLIAG FUNDS WILL NOT BE FULLY SPENT. ANY CONGRESSIONAL ACTION REDUCING THE FISCAL INTEGRITY OF THE SLIAG ACCOUNT WOULD THEREFORE BE UNACCEPTABLE. FURTHERMORE, ELIMINATION OF THE FY92 CARRYOVER OF FUNDS RECINDED IN FY89 WOULD ALSO RESULT IN REDUCTION OF CRITICAL HEALTH, EDUCATION AND SOCIAL SERVICES FOR BOTH THE NEWLY-LEGALIZED AND LEGAL ALIKE.

THE NATIONAL CONFERENCE OF STATE LEGISLATURES STANDS READY TO WORK WITH YOU TO ENSURE THAT THE NATION'S LEGALIZATION PROGRAM FUNCTIONS EFFECTIVELY AND IS FUNDED ADEQUATELY.

STATEMENT OF RAYMOND C. SCHEPPACH, NATIONAL GOVERNORS' ASSOCIATION

Mr. Chairman, Senator Specter and members of the subcommittee, thank you for the opportunity to submit written testimony for the record on behalf of the National Governors' Association (NGA) regarding the State Legalization Impact Assistance Grants (SLIAG).

Today you will be hearing from a wide variety of experts on SLIAG who will explain, in detail, much of the confusion surrounding the low drawdown of SLIAG funds and other controversial issues which we believe have unfairly led to recent and proposed funding reductions. NGA has been working closely with our colleagues in state and local government who are represented here today and are pleased to join them in calling for full funding of SLIAG.

NGA would like to focus its testimony on the history of the legislation, particularly the compromise which created SLIAG and contributed, ultimately, to the passage of the Immigration and Control Act of 1986 (IRCA). It was this carefully and thoughtfully-crafted compromise that allowed state and local government, specifically the Governors, to support IRCA. The reductions in funding during last year's appropriation process and the President's proposed reduction for fiscal year 1991 are inconsistent with that compromise and represent a reneging on the commitment made by the federal government to the Governors and others in 1986. As a result, we oppose those reductions strongly.

For several years prior to the enactment of IRCA, there was a lively national debate over immigration reform. A major issue within that debate was the recognition of the impact newly legalized aliens would have on states and local communities. In testimony on behalf of NGA on September 30, 1985, then Governor Bob Graham of Florida, Chairman of NGA's Task Force on Immigration and Refugee Issues, stated the Governors' clear position that, "If legalization is granted to illegal immigrants, the federal government must provide full reimbursement to state and local governments for all costs associated by the legalization program".

Governor Graham explained further that the Governors believed strongly that immigration policy is a federal responsibility and all costs associated with such policy should be borne by the federal government. Because of the difficulty in estimating costs for the newly legalized population, however, the Governors proposed a federal program that was based on reimbursement of actual costs without any cap on reimbursements so to ensure sufficient protection for state and local taxpayers.

In response to many of these concerns, an agreement was reached that SLIAG funding would be absolutely guaranteed to reimburse state and local governments by a four year "permanent" appropriation and that the funds could be spent over a seven year period. In exchange, a cap of $1 billion a year for four years minus the federal offset was agreed to. The funds were to be available for seven years because Congress believed, and the Governors agreed, there would be significant costs in assimilating this population for several years following legalization.

Reneging on that agreement sets a bad precedent. It hurts all the states, localities and service providers who have worked carefully and thoughtfully to plan their program in a cost-efficient and effective manner according to the law and funding available. It would in effect, penalize states for accurately and conservatively reporting their costs and wisely spending their money.

For fiscal year 1991, the Governors urge the Congress and the President to preserve the federal-state-local partnership established through SLIAG because we believe that states will, indeed, need all the money originally made available through SLIAG. Any reduction of funds disrupts state planning and services delivery, strains state and local resources which impacts the entire population, and perhaps most importantly, puts the newly legalized aliens who are in need of these services further at-risk.

We appreciate your consideration of our views on this important issue and hope that our historical perspective helps the committee better understand why we must support full funding of SLIAG as it was originally intended and oppose any funding cuts.

NEWLY LEGALIZED

Mr. CONCANNON. Our experience that these persons who are newly legalized are persons who are really needy, contrary to what has been expressed from some quarters at the Federal level, these persons in our experience are really needy from a basic health point of view, from an education point of view, especially in States like our own, where we see large numbers of seasonal agricultural workers [SAW's] who have not accessed basic health care or literacy services. We particularly see their needs impacting the public systems of care.

States are still in the process of documenting to the satisfaction of the Department of Health and Human Services at the Federal level the many costs incurred in fiscal years 1988–90. A new computer-based system recently completed by HHS may alleviate some of these problems. Historically, however, States delayed drawing down SLIAG funds until they resolved the issues concerning the complex SLIAG cost claiming process.

I also would like to point out for the committee that the number of newly legalized persons seeking services continues to grow as they overcome their long-standing fear of government agencies and unfamiliarity with available services.

Of the 3 million applicants to date, some 430,000 applied in fiscal year 1989—very late in the process. Further, the INS has yet to finalize processing on some 600,000 persons. I have not noted the potential impact of the raw program, as yet undefined, on future costs and liabilities at the State level.

Congress should maintain a full commitment to SLIAG funding as provided for in the IRCA legislation. As a number of the Senators pointed out this morning, earlier, this was an inherent, basic part of the commitment from the Federal level, from the Congress to the States, in this partnership. As the committee is aware, the States were very uneasy about the legalization, about the IRCA program absent the commitments made in SLIAG.

As the committee is well aware, SLIAG only partially offsets the costs to the States.

Reductions hurt newly legalized persons through cutbacks in services. I am very mindful, for example, of the struggles that the States are facing right now across the country in immunization programs, with the increased costs of vaccines and the very critical importance of immunization to these newly legalized persons.

SLIAG is working just as Congress intended. The $4 billion expended over a 7-year period—ironically it is this very fiscal funding mechanism which has eroded the Federal commitment to full funding, which has been pointed out in testimony by the National Council of State Legislators, submitted this morning.

A reduction in SLIAG reimbursement for authorized documented services for the newly legalized will ultimately, as well, reduce service dollars that are made available for the total population dependant on public programs. This is because, as has been pointed out in county testimony this morning, these persons are here; their needs will continue to come forth; and if the reimbursement mechanism is reduced to the states, then it will simply mean more persons seeking services that are inadequately funded to begin with.

States have developed base funding assumptions incorporating full SLIAG funding in the development of their respective state budgets.

That is certainly the case in my State. Our legislature's Appropriation's Committee has fully reviewed the proposed impact of SLIAG reimbursements to our State, and they, as we, are painfully aware of the fact that SLIAG funding, as fully funded right at the outset, will not reimburse the States for all of the services fully that are expected to take place between now and 1994.

So, I would urge, in closing, Mr. Chairman, that the full funding proposed right at the outset for SLIAG be our goal, rather than further reductions or rescissions.

Thank you very much.

Senator **Harkin**. Thank you very much.

We will conclude our panel with Mr. Helmar, the assistant secretary for program and fiscal issues of the California Health and Welfare Agency.

STATEMENT OF MARK HELMAR, ASSISTANT SECRETARY FOR PROGRAM AND FISCAL ISSUES, CALIFORNIA HEALTH AND WELFARE AGENCY

Mr. HELMAR. Mr. Chairman, Senator Graham, we have recently done a survey of States to determine what their projected costs are over the 7 years of the program. We believe the States will incur $4.4 billion in costs over 7 years, and GAO's work on the first 3 or 4 years of the program corroborates the data that we have used in making these cost projections.

IRCA right now, with the Federal offset, appropriates about $3.5 billion for State use. That is 78 percent of the costs that States expect to incur.

States and Congress realized, going in, that SLIAG funds would not cover all of the entire costs of the program. But the $3.5 billion helps significantly to defray State and local costs.

If you were to assume that one-half of the 600,000 pending applications were denied by INS, this $3.5 billion still translates to less than $1,500 per newly legalized person over the 5 years of their eligibility. Less than $300 a year is being spent on each person in this program.

Now, $300 buys you maybe 6 to 7 hours of adult education instruction, or maybe one emergency room visit, or maybe a few visits at a local clinic or out-patient department if there are associated prescriptions or diagnostic tests. So $300 per person a year does not buy you a lot. That is what the States are getting for this program.

The administration's budget, however, proposes to reduce SLIAG funding to $2.4 billion. That represents only 54 percent of State costs. In fact, if California were the only SLIAG State, that would only represent about 84 percent of California's anticipated costs. So, clearly, the administration's proposal to reduce the cost and rescind funds is totally unacceptable to States.

We think there were some erroneous assumptions made that the first years of the program would represent the centers of the highest cost. If you turn to graph No. 1 in the testimony, you will see how State costs are actually incurred over time.

We have somewhere around 6 percent to 7 percent of the costs that are incurred during the first year. It goes up about another 16 percent in the second year. But fiscal years 1990-92, the third, fourth, and fifth years of the program, are where we incur 60 percent of the costs.

The reasons for this are many. For example, the first year of the program was a start-up year. Many people did not even apply for amnesty in the Federal fiscal year 1989. The education impact of the program was felt greatest during the end of 1989-91. This is when people are receiving instructional services so they can convert to lawful permanent residency. And people who are newly legalized have significantly less health coverage, as Senator Wilson testified this morning, than the normal population. Becoming more familiar with services now, they are starting to use publicly supported health services. This is driving costs up.

We believe the costs are there. We believe the GAO information corroborates the State costs. I think the question really is what are the cash flow needs of States.

So what we anticipated doing is we have modeled some cash flow needs. We have looked at the drawdown and we are on a very accelerated rate for drawdown. We have paid more out in the first two-thirds of Federal fiscal year 1990 than States drew down in all of 1988-89 combined.

If we just maintain the current rate that we are on, by the end of Federal fiscal year 1991, we would be less than a 1-year lag between the time when we incurred the costs and draw the money down. However, there are some additional factors that will accelerate our drawdown rate even more.

Mr. Concannon alluded to the new cost documentation system that the Federal Government has recently developed for State use. California is now starting to use that for our Medicaid Program. In our first cost report, we have zero dollars in for Medicaid costs. That is what is right now in the official record for health and human services, zero dollars for Medicaid.

We had estimated, based upon some preliminary runs, that we would get about $7.7 million in costs for our Medicaid Program for that first year, and we have run the CDS program just recently. We found out that there is about $18 million of costs that are there, which we have to analyze to see how much of that we can claim. But we believe that that shows you significantly how the drawdowns will accelerate.

If you turn to the last three pages of the package, it shows basically three models on what we believe State cash needs will be. We plotted allocations against State costs, against anticipated drawdowns, to show you what the cash reserves and the unfunded State costs are.

The first model is on current law and, as you can see, States run out of cash in 1993. So the last years of our program are unfunded and what that causes us to do is go into transition planning for the next year or so to make sure we make those critical choices and balance essential health and education services out on a state and local basis. That gives States time to plan.

Chart No. 2 models the President's budget proposal. What that does is it causes States immediate detrimental fiscal impact in Federal fiscal year 1991.

We believe that we will start running out of cash in that year. That gives us a little over 1 year to do hurried transition planning. We will not be able to make the appropriate choices to avoid deleterious impact to newly legalized persons with that kind of transition planning time.

The last model is one where we take the President's budget for 1991, but we add a payback in 1993. You can see that that, over the life of the program, has the same impact as the current law. However, what that does is it forces States into making choices on a year-by-year basis which programs they will not fund, which programs they will stop, which programs they will start up again. This increases State administrative costs, takes dollars out of direct services.

PREPARED STATEMENT

Also, the start/stop planning mechanism makes sure people are not receiving the high quality, cost-effective and beneficial services they need, and that will contribute significantly to the delay of newly legalized persons becoming fully participating members in their community.

Thank you.

[The statement follows:]

STATEMENT OF THE CALIFORNIA HEALTH AND WELFARE AGENCY

THE STATE LEGALIZATION IMPACT ASSISTANCE GRANT PROGRAM HONORING THE FUNDING COMMITMENT IN CURRENT LAW

Federal Fiscal Year 1991 marks the fourth year of federal funding to cushion the impact of the Immigration Reform and Control Act of 1986 (IRCA) on state and local governments. Congress, in contemplating the effects of immigration reform, recognized the vital role that state and local governments would have in providing essential public health, education, medical assistance, and other public assistance services to newly legalized persons. This recognition was grounded in the reality that many illegal aliens who would apply for amnesty were already receiving state and locally funded services -- especially in emergency circumstances.

But Congress also realized that amnesty itself -- the legalization process -- would create a new demand on publicly funded services, primarily in the public health and education arenas. However, fearing a frontal assault on cash public assistance programs like AFDC, Congress intentionally limited the eligibility of newly legalized persons to qualify for federally funded programs for five years from the approval dates of their legalization applications. Nonetheless, Congress provided state and, by extension, local governments with a limited amount of federal funding to help defray their costs of serving newly legalized persons. These funds bear the slightly misleading moniker of State Legalization Impact Assistance Grant (SLIAG) funds -- slightly misleading because SLIAG is a federal reimbursement program, not a true grant program.

But back to FFY 1991. It is a benchmark for several reasons. First, FFY 1991 is the midpoint in our nation's SLIAG adventure -- the fourth year out of seven in which states may claim SLIAG costs and spend federal SLIAG funds on newly legalized persons. If one believes in perspicacious, albeit precognitive, budget forecasting, FFY 1991 should represent the zenith of state costs for serving the newly legalized.

Furthermore, it would have been the final year of SLIAG funding allotments under the original provisions of IRCA. Congress pledged to appropriate all the SLIAG funds to states during FFYs 1988 through 1991, essentially front loading the funding for this critical program into the first half of its authorized lifespan. Only the eleventh hour vicissitudes of federal budgeting exigencies forced Congressional deferment of a major portion of FFY 1990 SLIAG funds to FFY 1992.

Consequently, FFY 1991 is a crossroad -- a critical decision point for the future of SLIAG, for the future of IRCA itself. This crossroad poses questions, presents quandaries, and questions the propositions put forth, and accepted, by prior decision makers.

The litany of Congressional questions and concerns can be reduced to two quintessential issues:

- How much SLIAG funding will states actually need for allowable services provided newly legalized persons?
- What are the year-by-year cash flow needs of SLIAG participating states and local governments?

The ability of states (and local governments) to manage services for newly legalized persons is tied, to a large extent, to the amount of

SLIAG funds available in any given budget period. Depending upon what they perceive as adequate funding, state and local governments may decide to simply reimburse general fund expenditures for SLIAG-allowable services, or to expand existing delivery systems to serve newly legalized persons, or to create new educational programs for the newly legalized. Each of these decisions requires a tremendous amount of forethought and determination to set funding priorities based on individual and societal needs as perceived by state and local decision makers.

During the early years of SLIAG fund availability, state and local government officials were generally willing to take some financial risks about budgeting SLIAG funds. Intuitively they felt their programs were already serving newly legalized individuals. Why shouldn't they lay claim to some SLIAG revenue? They soon realized that "guestimates" and other simple forecasting techniques were not the "empirical data" that federal officials wished to see.

Until they could resolve issues about SLIAG program implementation with federal officials, many states were reluctant to extensively draw down SLIAG funds. This "go slow" approach may have been prudent from a fiscal management/audit avoidance perspective, but it precipitated a major controversy about the need for SLIAG funding.

Slow state drawdown of SLIAG funds led Congress and federal administration officials to the erroneous impression that states would not spend all their SLIAG funds. Consequently, during the past year there were several proposals to reduce the amount of SLIAG funds allocated to states and use these "freed up" funds for other federal budget needs. Congress reduced the FFY 1990 SLIAG appropriation by $555 million but added authorizing language to extend SLIAG appropriations for another year -- into FFY 1992. This "payback" provision partially lessened states' anxieties about raids on SLIAG funds, but their uneasy quietude was short-lived. President Bush's budget proposed a $537 million reduction in state SLIAG funds and a recision of the payback of the FFY 1990 SLIAG reduction in FFY 1992.

A key assumption made by federal officials -- that the major financial impact of legalization will be in the early years of the program -- fails to recognize basic facts about when states will actually incur SLIAG-allowable costs and drawdown the bulk of their SLIAG funds. Analysis of recent state projections of SLIAG costs reveals that the majority (60%) of these costs will materialize in FFYs 1990, 1991, and 1992 -- the third, fourth, and fifty years of the SLIAG program. FFYs 1988 and 1989 account for 22% of state SLIAG costs, with the last two years of the program contributing 17%. (Please refer to Graph #1.)

The major reasons for this are:

- FFY 1988 was the start up year for legalization. Most amnesty aliens had a year in which to apply. Special Agricultural Workers (SAWs) were still submitting applications well into FFY 1989. Although costs for public health services resulting from medical screenings were high during FFY 1988, these costs were not substantial compared to later adult education and indigent health care costs. (Please refer to Graphs #2 and #3 about when aliens filed legalization applications and when their five year eligibility for SLIAG-funded services ends. Graph #2 presents nationwide data; Graph #3 is specific to California.)

- The Department of Health and Human Services (DHHS) issued SLIAG regulations and guidance in mid-FFY 1988. However, it took states additional time to work with local providers and community groups to expand their service delivery systems, especially for adult education services. Sometimes state and local funding decisions were postponed because they were related to federal review and approval of 1988 SLIAG applications. After receiving state SLIAG applications, DHHS made the FFY 1988 SLIAG allocations to states in July, 1988.

- States structured their SLIAG expenditure plans to account for the growth in the numbers of legalization applicants during the application window (May, 1987 through November 1988), the time needed to expand service delivery capabilities, and the growing demand for adult education services. This demand is greatest in FFYs 1989, 1990, and 1991, because the overwhelming majority of newly legalized persons will apply for lawful permanent residency between November, 1988 and November, 1990.

- Historically, newly legalized persons are reluctant to receive services, especially from government agencies, except in urgent or emergency situations. Even when they access publicly supported programs, they are reluctant to identify themselves.

  The newly legalized population does not access public cash assistance programs to any great extent, but they have significantly less health insurance coverage than, for example, California's Hispanic population. California's 1989 survey of newly legalized persons indicates that over half of the pre-1982 applicants and seventy percent of SAWs do not have health insurance. If a major catastrophic illness or injury befalls a newly legalized person, publicly supported health care programs will bear these high costs. (Please refer to Executive Summary, A Survey of Newly Legalized Persons in California.)

- States initially had, and in some programs are still having, difficulty identifying and tracking SLIAG-allowable services and related costs. A major problem was retroactively reconstructing service utilization and costs for FFYs 1988 and 1989. Although most programs anticipated the need to begin identifying newly legalized persons, the newly legalized are reluctant to identify themselves to service providers.

  In California, adult education service providers, due to the "satisfactorily pursuing" option for conversion to permanent residency, generally had the easiest time prospectively eliciting immigration status information. Health programs where immigration status information is not a condition of program eligibility (e.g., mental health, indigent health care, etc.) experienced the most difficulty in asking for immigration status information and receiving reliable responses.

  Knowing that prospectively asking for legalization status would be cumbersome and unreliable for its mental health and indigent health care programs, Los Angeles County used sampling techniques to ascertain how many newly legalized persons used program services. Sampling techniques for large health care programs are very complex. It took California several months to obtain DHHS's review and concurrence with Los Angeles County's sampling plan.

  Another alternative for documenting state SLIAG costs -- the federal Cost Documentation System (CDS) -- allows states to match program utilization and cost data, arrayed by client social security number, against a file of social security numbers for newly legalized persons. States receive aggregate data on the

> numbers of newly legalized persons receiving program services, with associated costs; but no confidential client identification data is exchanged by the system. The system has been designed, tested, and recently enhanced. California is now beginning to use CDS to document costs under Medi-Cal, its federal Medicaid program.

California and other states never assumed that Congress intended SLIAG funds to be sufficient to meet all state and local costs resulting from legalization. However, there should be no doubt that states will use the full level of SLIAG funding Congress originally appropriated. States need full SLIAG funding to provide high quality, effective services so that newly legalized persons can quickly become fully participating members of their communities.

With all the complicating factors involved in identifying and tracking SLIAG services and costs, initial SLIAG cost reports and applications did not present a clear picture of the level of state SLIAG funding needs and cannot reliably be used to project future state SLIAG costs. States have recently revised their cost reports and applications so that DHHS can allocate FFY 1990 SLIAG funds next month. Additionally, many states used their revised cost reports and applications to project their SLIAG costs during FFY 1991-1994. These projections were made for the General Accounting Office and DHHS's Office of Inspector General.

These state SLIAG cost projections indicate that states will incur $4.493 billion in SLIAG-allowable costs through FFY 1994. California alone will incur $2.908 billion. Under current law, states will receive $3.534 billion in SLIAG funds through FFY 1992 -- revenue equal to 78.7% of state SLIAG costs. (Please refer to Graphs #4 and #5.)

The President's budget proposes to drastically reduce the amount of SLIAG funds, leaving only $2.429 billion available to states. This covers only 54.1% of state SLIAG costs nationwide, and less than 84% of California's projected SLIAG costs.

The question of cash flow needs of states is more difficult than that of the amount of SLIAG costs states will incur throughout the life of the program. Very little payment trend history exists for the SLIAG program, primarily due to its recency. It has been less than two years since the allocation of FFY 1988 funds.

What little trend data exists clearly demonstrates that states are drawing down SLIAG funds at an accelerating rate. During FFY 1988, states collectively drew down $9.4 million in SLIAG funds; FFY 1990 saw collective drawdowns of $321.6 million. Through May, 1990 -- only two thirds of the way through this federal fiscal year -- states drew down $361.3 million. If states continue to draw down SLIAG funds at the rate they did between the third quarters of FFY 1989 and 1990, they will use over $2.1 billion in SLIAG funds by the end of FFY 1991. This would represent a one year's time lag between when a SLIAG cost is incurred (e.g., an authorized provider serves a newly legalized person) and drawdown (e.g., a state pays the provider claim with SLIAG funds).

However, state drawdown activities will continue to accelerate even faster than they have during FFYs 1989 and 1990. States' revised cost reports and applications for FFYs 1988, 1989, and 1990 will resolve many of the cost documentation issues states have been negotiating with the federal government. For example, California has recently resolved several federal concerns about Los Angeles County's sampling plan for indigent health care.

Further, California has made recent policy changes that will also be reflected in its revised cost report and application. It has begun using CDS to document its Medicaid costs. Additionally, it has increased its payment rates for education services provided in this year and next. These factors will significantly increase the amount of SLIAG-allowable costs California can claim and will rapidly impact the amount of its SLIAG drawdown.

Given these new circumstances, state drawdowns will probably approach a six month time lag by the end of FFY 1991. In effect SLIAG costs incurred in the last half of the previous fiscal year and those incurred in the first two quarters of the current fiscal year will be paid during that year.

In examining the SLIAG cash flow needs of states, California developed a model to look at the relationships among state SLIAG allocations, costs, and drawdowns, and how these relationships impact SLIAG cash reserves and unfunded state costs. The model employed three different assumptions for the level of SLIAG allocations to states. First, there are the SLIAG allocations expected under current law (i.e., $1 billion less the federal offset for FFY 1991 and payback of the FFY 1990 reduction in FFY 1992); secondly, those proposed in the President's budget (i.e., $301 million for FFY 1991 and recision of the FFY 1992 payback); lastly, a hybrid allocation scenario -- the President's proposed budget figure for FFY 1991, the current law's FFY 1992 payback provision, and payback of the President's proposed reduction of $538 million in FFY 1993. The model assumes states will reach a drawdown lag of six months by the end of FFY 1991.

Charts #1, #2, and #3 present the results of the model. Chart #1 is based on the SLIAG allocations in current law. Additionally, Graphs #6 and #7 present the data in Chart #1 for all states and for California, respectively. Chart #2 reflects the President's proposed budget, while Charts #3 displays the results of the hybrid allocation scenario.

The timing of the SLIAG allocations set forth in current law does not adversely impact states until FFY 1993. At that time state drawdowns deplete available SLIAG funds. States would run out of SLIAG funds in the second quarter of FFY 1993. Under current law, states need to use FFY 1992 as a transition year to make the policy and budgetary decisions necessary to continue essential services to newly legalized persons.

The President's budget proposal adversely impacts states late in FFY 1991. States would have no SLIAG allocations in FFYs 1992 or 1993. The few remaining months of the current year and FFY 1991 hurriedly become the transition timeframe under this proposal.

The hybrid scenario produces, somewhat surprisingly, varied results depending upon the federal fiscal year. It begins to have adverse impacts on states in FFY 1991. They would be unable to pay $36 million in anticipated claims during this year. From then through FFY 1993 states would have only their share of the annual SLIAG allocation for drawdown purposes. In FFY 1992 the SLIAG allocation would cover roughly two-thirds of the claims states anticipate paying; but in FFY 1993, states could reimburse nearly 85% of their SLIAG-allowable claims.

Transition planning under this scenario would be futile. "Off again - on again" SLIAG funding severely impacts service delivery and claims payment at state and local levels. In the face of dwindling funds, trying to decide what services are the most essential to continue is a difficult priority setting exercise. However, compounding the state and local decision making processes by widely varying the amount of federal SLIAG funds available to pay claims on a year-to-year basis makes transition planning a task of Herculean proportions. State and local policy makers would not only be faced with choices about what are the most important services to continue, but also what claims should be deferred or denied for lack of SLIAG funding in a particular year; what programs should be temporarily halted, only to hopefully resume operation in the upcoming year; and how will haphazard funding negatively impact the quality and continuity of essential education and health care services. "Off again-on again" SLIAG funding imperils the effectiveness and the quality of services provided the newly legalized, frustrates local decision makers and service providers, and undermines previous gains in strengthening and/or expanding state and local service delivery networks made because of the availability of SLIAG funds.

From a state viewpoint, particularly from California's viewpoint as the state with the majority of newly legalized persons, current law is the only SLIAG allocation scenario which will not prematurely and precipitously impact states. The President's budget proposal not only requires states to immediately begin transition planning, but also, and more significantly, breaches the federal financial commitment made to states in IRCA. Similarly, a hybrid allocation scheme based upon the FFY 1991 SLIAG appropriation level proposed in the President's budget fails to provide states with the cash flow they need to avoid deferment of allowable claims or sporadic curtailment/closure of critical education and health service delivery systems.

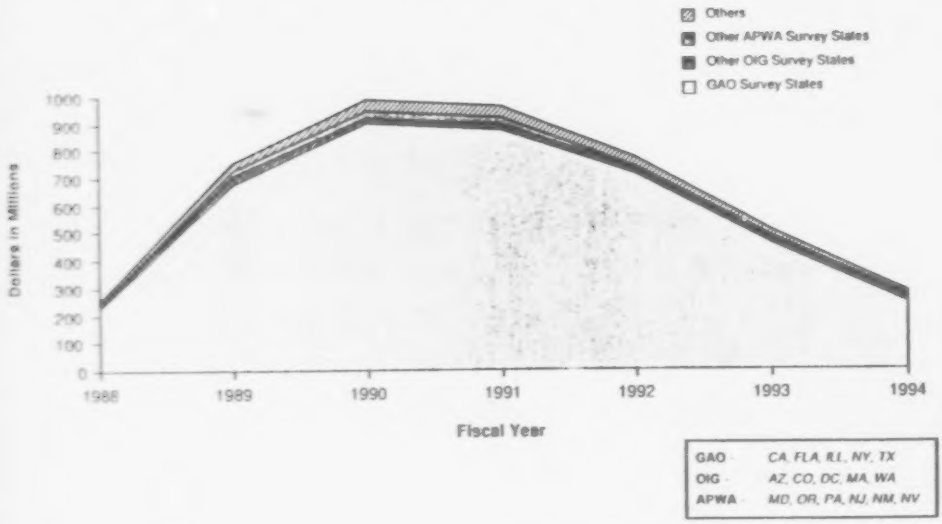
Graphs #8 and #9 illustrate the SLIAG allocations provided under current law, state costs, and drawdowns -- all displayed against the aggregate five year eligibility period each newly legalized person has for SLIAG funded services. State SLIAG costs follow the number of persons applying for legalization and their eligibility period for SLIAG funded services. Drawdowns lag behind state costs for the early years of the program, but by FFY 1991 states have achieved a 6 month time lag between incurring costs and drawing down SLIAG funds. This reasonable lag is maintained until states exhaust the fixed amount of the SLIAG allocation in FFY 1993.

Fiscal integrity and transition planning are very important factors. However, the human service delivery impact -- how state and local governments can help newly legalized persons fully participate in their communities, in American society -- needs to be the paramount factor in shaping the decision of Congress on continuing IRCA's fiscal commitment to states. The demand for essential programs like adult education and indigent health care will continue over the next several years. Newly legalized persons need these critical services, and state and local governments need uninterrupted SLIAG funding to assure their effectiveness and quality. With the SLIAG allocation provisions that exist in current law, states can help fulfill IRCA's promise to over 3 million people in this country -- come out of the shadows and make America your home.

State Legalization Impact Assistance Grant (SLIAG)

Projected Costs by State Grouping

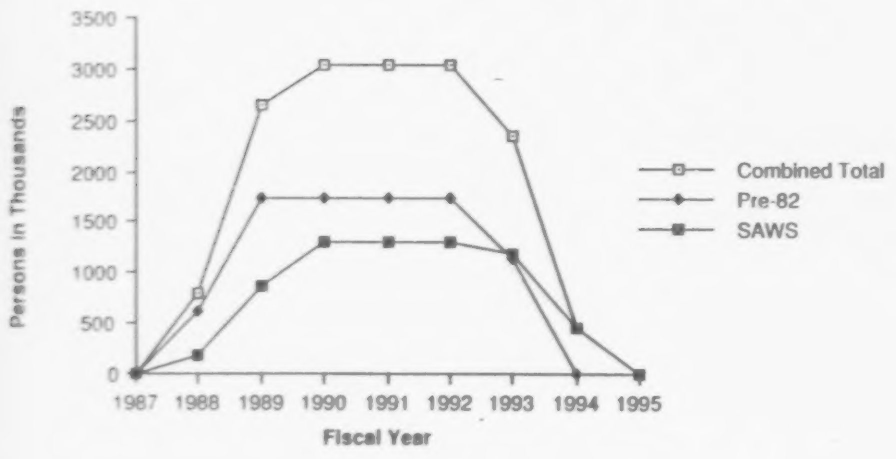
Graph 1



State Legalization Impact Assistance Grant (SLIAG)

Number of Persons Eligible for SLIAG-Funded Services—Nationwide

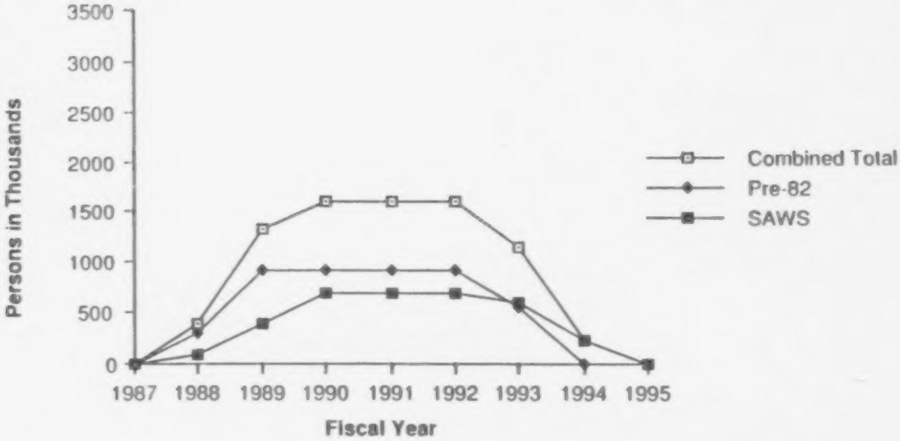
Graph 2



State Legalization Impact Assistance Grant (SLIAG)

Number of Persons Eligible for SLIAG-Funded Services—California

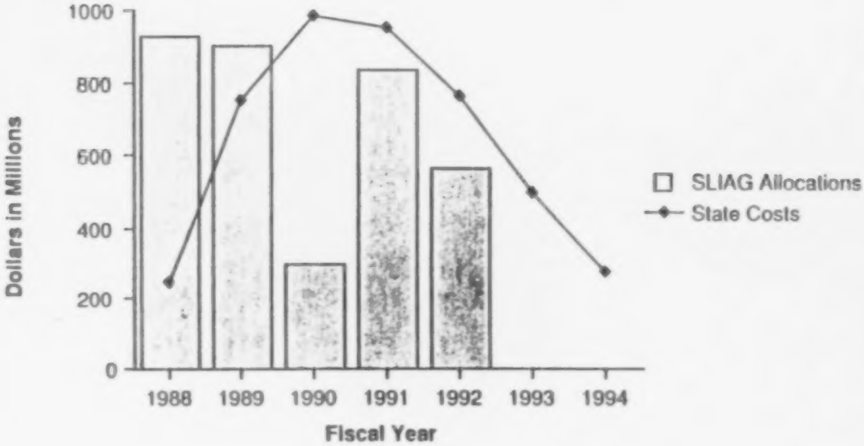
Graph 3



State Legalization Impact Assistance Grant (SLIAG)

SLIAG Allocations Compared to Projected State Costs—Nationwide

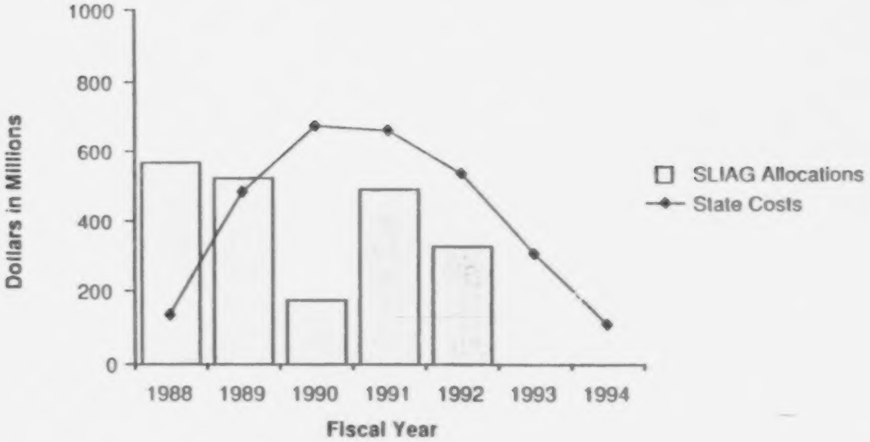
Graph 4



State Legalization Impact Assistance Grant (SLIAG)

SLIAG Allocations Compared to Projected State Costs—California

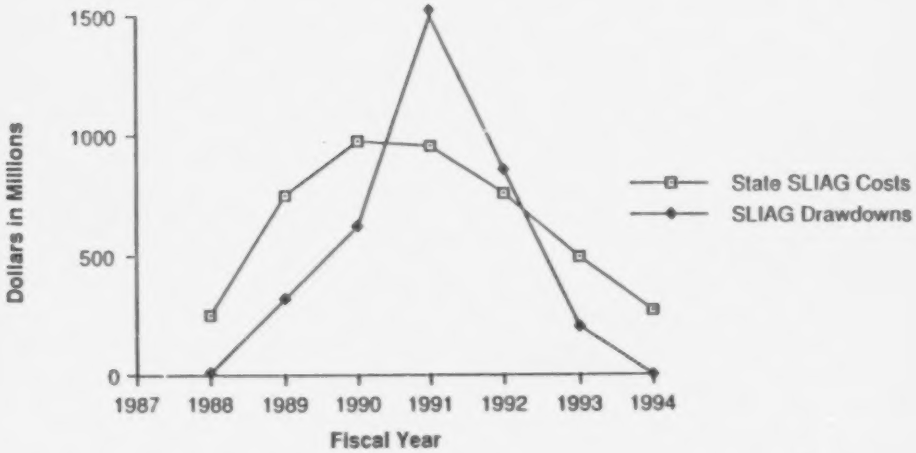
Graph 5



State Legalization Impact Assistance Grant (SLIAG)

Projected State Costs Compared to Drawdowns—Nationwide

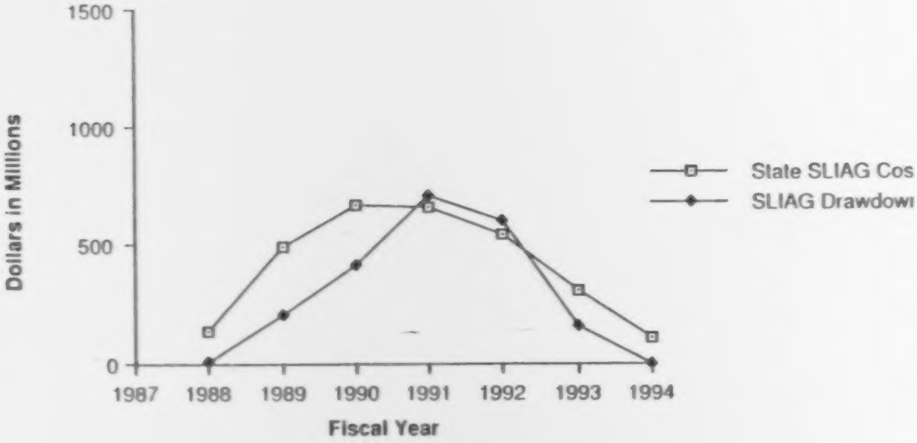
Graph 6



State Legalization Impact Assistance Grant (SLIAG)

Projected State Costs Compared to Drawdowns—California

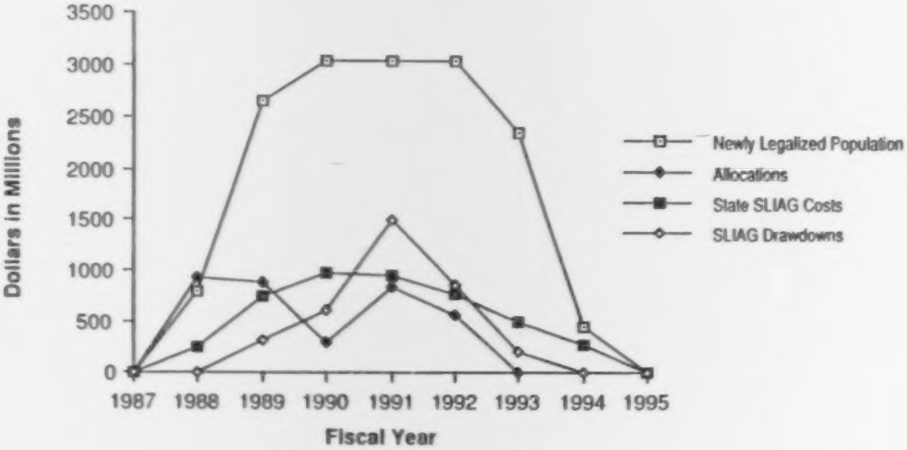
Graph 7



State Legalization Impact Assistance Grant (SLIAG)

Newly Legalized Population/Projected Costs/Drawdowns—Nationwide

Graph 8



State Legalization Impact Assistance Grant (SLIAG)

Newly Legalized Population/Projected Costs/Drawdowns—California

Graph 9

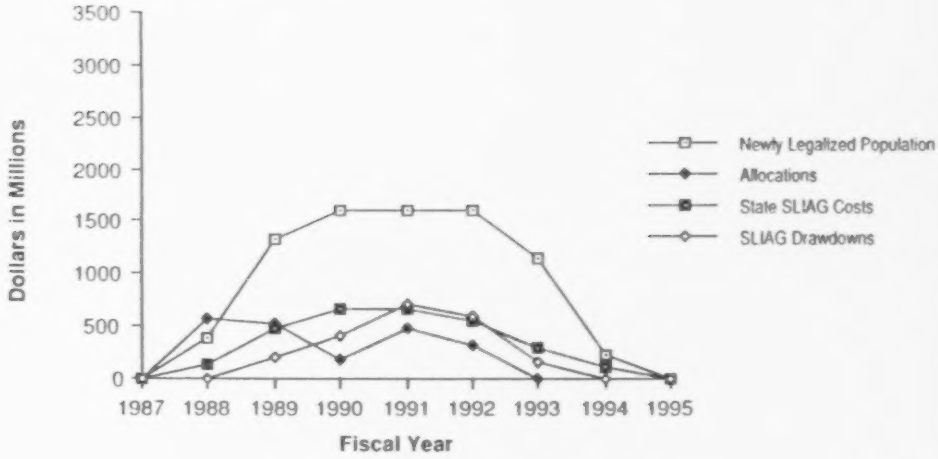


CHART I

STATE SLIAG FISCAL PROJECTIONS
(Dollars in Millions)

FFY 1988-1994

	88	89	90	91	92	93	94	TOTAL
o ALLOCATIONS TO STATES (Current Law)	929	898	301	839	567	--	--	3,534
o STATE SLIAG COSTS	251	752	984	957	767	504	278	4,493
o DRAWDOWNS (6 mo. lag achieved by end of FFY 91)	9	322	625	1,509	862	207	--	3,534
o CASH RESERVES (Cumulative allocations minus cumulative drawdowns)	920	1,496	1,172	502	207	--	--	--
o UNFUNDED STATE COSTS	--	--	--	--	--	429	530	959

CHART 2

STATE SLIAG FISCAL PROJECTIONS
(Dollars in Millions)

FFY 1988-1994

	88	89	90	91	92	93	94	TOTAL
o ALLOCATIONS TO STATES (President's FFY 91 budget & FFY 92 recision)	929	898	301	301	--	--	--	2,429
o STATE SLIAG COSTS	251	752	984	957	767	504	278	4,493
o DRAWDOWNS (6 mo. lag achieved by end of FFY 91)	9	322	625	1,473	--	--	--	2,419
o CASH RESERVES (Cumulative allocations minus cumulative drawdowns)	920	1,496	1,172	--	--	--	--	--
o UNFUNDED STATE COSTS	--	--	--	36	862	636	530	2,064

CHART 3

STATE SLIAG FISCAL PROJECTIONS
(Dollars in Millions)

FFY 1988-1994

	88	89	90	91	92	93	94	TOTAL
o ALLOCATIONS TO STATES (President's FFY 91 budget with FFY 92 & FFY 93 paybacks)	929	898	301	301	567	538	--	3,534
o STATE SLIAG COSTS	251	752	984	957	767	504	278	4,493
o DRAWDOWNS (6 mo. lag achieved by end of FFY 91)	9	322	625	1,473	567	538	--	3,534
o CASH RESERVES (Cumulative allocations minus cumulative drawdowns)	920	1,496	1,172	--	--	--	--	--
o UNFUNDED STATE COSTS	--	--	--	36	295	98	530	959

SURVEY OF NEWLEY LEGALIZED PERSONS IN CALIFORNIA

The Immigration Reform and Control Act (IRCA) enacted in November 1986 included major provisions in the areas of employment and legalization for persons residing in the United States without government permission. The legalization component (commonly referred to as "amnesty") allows these persons to become legal residents once they have met specified criteria. The estimated three million legalization applicants nationally include 1.8 million who have been in this country since before 1982 (Pre-82s) and 1.2 million special agricultural workers (SAWs).

About 55 percent of the nation's three million legalization applicants live in California. California's Health and Welfare Agency estimates that 1.6 million Californians will be approved as temporary residents including more than 900,000 Pre-82s and about 650,000 SAWs. California has received allotments amounting to about $1.1 billion of State Legalization Impact Assistance Grant (SLIAG) funds through federal fiscal year 1990 and is expected to receive nearly 60 percent of whatever future funds are available subject to Congressional action. These funds are to assist state and local government agencies with costs they incur in providing health, educational, or social services to newly legalized persons (NLPs).

Not enough is known about this population who illegally immigrated to the United States for a variety of reasons. What is known is that 1.6 million Californians who previously lived here in fear of discovery and deportation have since stepped forward to take part in the IRCA legalization program. This historic legislation will have a profound impact not only on the lives of the individuals who will become legal residents but also on almost every aspect of our society.

In recognition of the need for more definitive data about the 1.6 million NLPs, the California State Legislature mandated (in the 1988 Budget Act) a study of the major health, educational, and social service needs of this emerging population. With federal Department of Health and Human Services approval of SLIAG funding for the study, the possibility of a major effort to describe the legalizing population in California became a reality.

This Survey of over 5,000 adult amnesty applicants enrolled in educational programs was conducted from late February through July 1989 by the Comprehensive Adult Student Assessment System (CASAS). It was designed to provide information to both the California State Legislature and the California Health and Welfare Agency for use in planning and budgeting services for the newly legalizing population. The findings of the Survey are presented in this report.

Demographic Comparison of Pre-82s and SAWs

In most cases, data are presented separately for Pre-82s and SAWs because of demographic differences between the two groups. Pre-82s in the Survey sample, for example, have typically been in the United States longer than SAWs. All of the Pre-82s have lived here for at least eight years and about 13 percent have been in the United States for 16 years or more (since 1973 or earlier). Nearly half of the SAWs have been here less than five years, and about one-quarter (27%) came before 1982.

SAWs in the Survey sample were predominantly male, and were younger and proportionately less likely to be married than were Pre-82s. Approximately one-fifth of married SAW respondents and one-tenth of married Pre-82s reported that their spouse did not live in the same household. The general level of previous education was low for both groups.

Nearly all of the respondents were from Mexico, El Salvador, and Guatemala, and the majority reported that they spoke little or no English outside the home. Native language media was the primary source of information about educational program requirements pertaining to legalization.

Legalization

A majority of Pre-82s have temporary residence status (I-688). More than half of the SAWs, however, are not temporary residents and hold only Employment Authorization cards (I-688A). This reflects the large number of SAW applications for Phase I of the legalization process which had not yet been adjudicated by the Immigration and Naturalization Service (INS) during the first half of 1989 when the Survey was conducted.

Pre-82s must take specific, timely action to effect the change from temporary to permanent status including demonstrating minimal proficiency in English and a basic understanding of U.S. government. Virtually all Pre-82s reported that they were aware of the need to file an application to complete the Phase II adjustment from temporary to permanent residency; however, at least 43 percent did not know their correct Phase II application deadlines.

Education and English Language Proficiency

All respondents were enrolled in SLIAG-funded English as a Second Language (ESL) or Civics educational programs at the time of the Survey. More than half were first-time users of educational services in the United States, and most were attending classes to increase general English language proficiency and to satisfy real or perceived legalization requirements. Thirty-nine percent of SAW respondents stated that they were enrolled in a class because of an educational requirement for legalization. Since this requirement applies to Pre-82s but not SAWs, this finding and the Pre-82s' lack of awareness of Phase II deadlines noted above indicate that many newly legalized persons may not have been adequately informed of their rights and responsibilities under IRCA.

Approximately three-quarters of the Pre-82 and SAW respondents scored below a minimal functional level of English language proficiency (CASAS 215, which is roughly equivalent to a fifth- or sixth-grade reading level in the United States). Scores for Pre-82s in the Survey were similar to those of the statewide Pre-82 population enrolled in SLIAG-funded educational programs, but scores for SAWs were higher in the Survey sample than in the larger enrolled population. Survey results for SAWs can therefore be generalized to a lesser extent to the statewide population enrolled in educational courses. Almost all respondents expressed interest in attending future classes, and about 80 percent stated that they intended to apply for citizenship.

Employment

Nearly all respondents had worked in the United States at some time, and at least 70 percent were working full-time during the month before the Survey. Of those who were working, about 85 percent worked at least 40 hours per week, and most reported working 50 weeks or more per year. Median weekly net incomes for families were estimated to be between $400 and $449 for Pre-82 respondents and between $350 and $399 for SAWs.

More SAW and Pre-82 respondents worked in agriculture than in other occupations before coming to this country. However, only one-third of the SAWs reported that they "usually" worked in agriculture during the year before their interviews and of these, 60 percent intended to find work outside of agriculture. Pre-82 and SAW respondents were generally employed in manufacturing and services.

Health

The general health of the Survey population, as determined through self-reports, was better than that of a general sample of comparably aged Hispanic Californians. Approximately 90 percent of the newly legalized Survey respondents, as compared to 78 percent of the general population of Hispanic Californians, said they were in "excellent" or "good" health.

About half (46%) of this Survey's Pre-82 and 30 percent of SAW respondents said that they had health insurance. This contrasts with a finding that about 63 percent of California's general adult Hispanic population have health insurance. Further, Survey findings suggested that respondents did not seek medical care as frequently as the general population of Hispanic Californians. Pre-82s who did have health insurance were more likely to use medical care than Pre-82s who were uninsured. The generally low incidence of health insurance in the sample surveyed, as well as their superior reported health may in part explain why newly legalized persons do not seek medical care more frequently.

Government Programs

Survey respondents and their families rarely used government programs, especially those cash assistance programs which could jeopardize their successful participation in the legalization process. The five programs of highest reported use were the Women, Infant and Children Program (WIC), Unemployment Insurance (UI), Food Stamps, Worker's Compensation, and government-assisted housing. No more than four and one-half percent of the Pre-82, and one percent of the SAW respondents, reported that they or a family member had ever received a benefit under any of the following four programs: Aid to Families with Dependent Children (AFDC), General Assistance, Social Security, or Supplemental Security Income (SSI)/State Supplemental Payments (SSP).

This report presents descriptive information which is expected to assist the California State Legislature and Health and Welfare Agency in planning and budgeting health, educational, and social service programs for the state's 1.6 million newly legalized persons as they become integrated into the mainstream of American life. The report also provides a useful frame of reference and database for other analyses of the characteristics and needs of newly legalized persons.

PROJECTIONS

Senator **Harkin**. Thank you very much, Mr. Helmar, and I thank all of the panel.

I will defer to Senator Graham for his questioning.

Senator **Graham**. Thank you, Mr. Chairman.

I apologize for having to be away for a portion of this panel. I particularly wish to welcome my friend from Dade County. We had had a previous opportunity to discuss his testimony.

I would like to ask this of each of you. Going back to the projections that were made when this program was initiated by the Congress as part of the Immigration Act of 1986, how have your estimates of cost, as of 1986, compared to what you have actually experienced since that time? Has there been a significantly greater cost of servicing this population, less cost or about what you had projected?

Mr. **Avino**. I'll start. Our cost documentation indicates that the costs were actually higher. The problems that we have had relate to two things. No. 1 is the regulations disallow for some other services provided. So, consequently, the counties have been forced to cover those expenses from local funds.

In addition to that, the biggest problem that we have experienced is the preparation of the cost documentation data that is necessary because of the problems experienced with the applicants when they go through the process in getting the correct explanation as to the status of a person when they go through so we can do the actual followup and document those costs.

But, in general, the costs have been higher. But a number of the costs have been disallowed.

Mr. **Concannon**. Senator, in response to your question, I cannot speak expressly to the forecast in our State. But our experience has certainly been that with each succeeding year of implementation of the act, the increases have been exponential in amounts. I spoke to the Governor's staff manager this morning on that very issue, and we expect, in our case, to expend all of the funds and to exceed, in terms of costs, the funding that was originally forecast for the State for the full amount of SLIAG.

Ms. **Collins**. Speaking for Los Angeles County, our costs have significantly increased. We anticipated in the first year of 1987–88 $10 million. That's what we budgeted.

Our costs in that year were somewhere in the range of $80 million. Our costs right now are in the range of $130 million. Our costs next year might be up to $160 million.

So we have had significant growth and far more than we ever anticipated.

Mr. **Helmar**. Our experience has been a mixed one. Our first State budget year probably had somewhere around the midforties—$47 million or so—for indigent health care for counties; about $30 million for education services; and I believe somewhere around $41 million or $42 million for some of the public assistance programs.

What we found out is that this population does not use public cash assistance programs very much at all. So I think our estimates have been revised in that category, from like the $41 million level to under $3 million.

Our indigent health care costs have gone up from like $47 million to probably the $80 million level for that same year. So we have made some internal shifts.

We found out in education that it was slower starting up than we anticipated. So we ended up only spending about $8 million to $10 million out of that $30 million that we had originally budgeted. However, education quickly caught up in the subsequent fiscal years. So we have done this year by year reestimation of our cost.

I think you will find that there are three basic trends. First is that indigent health care costs, be they through Medicaid or local indigent health care programs, started slowly but have accelerated. They started slowly, but they were probably at levels that people didn't originally anticipate because no one knew how many of these people were actually accessing services at the time they applied for amnesty. It was surprising, the number of people that actually had accessed services in clinics, in publicly supported programs.

Education sort of went like a bell-shaped curve. It took a little bit slowly, and then, in the second year, it accelerated immensely. People signed up.

We served, I think, something like 600,000-plus people the second year of our program for educational services. People just came on in to get those classes, to get that certificate.

We have now seen it sort of level off and start to go down. People have gotten their certificates and they are not as interested as people would have thought they would be in continuing on for other educational purposes. So we have seen a flattening and a leveling off. But we still think that will be at the rate of several hundred million dollars a year in education costs in California.

The public cash assistance programs basically started high on our estimates. We thought that they were going to act like the public cash assistance recipients, Hispanics, in California. That didn't materialize at all. But now we are seeing an increase in the SSI program. We pay a supplemental portion in California, so we see increases there.

That happens to be the cash program and it happens to be sort of aberrant—but mainly cash programs. Our estimates were too high in the beginning and we dropped them. Education ended up shifting to the second year and then ballooning it. Our indigent health care programs we ended up upping, and they, quite frankly, keep rising.

So when Ms. Barnhart from Health and Human Services says there were some discrepancies between original State estimates and what they are actually claiming in costs, that is true, because a lot of us went into the program trying to figure out how close is this population going to act in accessing services to, let's say, the Hispanic population in California or similar populations in Florida or Oregon.

We used those proxies in those early estimates. Those proxies were not always true. But we have now used the experience to ratchet down those estimates and cost reports. The $4.4 billion that

I said States are going to incur is based upon that 2½ years of experience with actual service to the population.

So it is not a continuation of those original high numbers over time. It is based in the reality that we have seen over the last 2½ years in managing the program.

Senator **Graham**. To follow on your statement, in Ms. Barnhart's prepared statement, she discussed the issue of education funding. She said that more than three-quarters of the pre-1982 aliens already have met the requirements for permanent residence. Almost all met that requirement by the end of 1990. Then she goes on to say that, "the demands for these—educational services and costs—are dropping quickly."

Is that your experience, that there has been a rapid decline since the end of 1990 in education costs?

Mr. **Avino**. In our case, it's quite the contrary. Our indications are that there is more of a demand for those services now, as people get more accustomed to the services that are being provided.

In our situation, our economy is basically a tourist-based economy. We are gradually moving from that tourist-based economy into a more sophisticated, technical type based economy. This requires that the people within our county become more sophisticated in their language skills, in addition to their educational skills. So, as such, the demands are continuing to go up, instead of going down.

Mr. **Helmar**. Our experience is varied. Like I said, we served 600,000 the second year of the program, and then that dropped off to about 400,000 in the third year of the program.

You have to remember, though, that part of this is a documentation issue; that education programs are not limited solely to ESL and civics; that the full range of adult basic education, including getting a high school diploma, a general education diploma equivalency, are allowable costs. What we are finding is that, once a person obtains their literacy proficiency or even, if not proficient, obtains their certificate of pursuit, their tendency is to try to meld in with the normal programs.

What we did in California is we created a whole series of amnesty classes for ESL and civics, and basically, people could sign up, as opposed to going on a waiting list for a normal ESL class. They could sign on up and get preference through these classes.

So that automatically got people in and got them off waiting lists.

Now we have found out that once they get that taken care of for the legal requirements for their proficiency, they go on to other things and they do not identify themselves as newly legalized in the adult education sector.

So we are having difficulty documenting this basic expansion of newly legalized people into other than ESL and civics classes in adult education.

But I think there is some trend that the population need or use of adult education services is not going to be as high in the fourth, fifth, and sixth years of the program as it was in the second and third—just because of the requirement that people get that certificate of satisfactory pursuit.

Where it drops to and levels out we think is still somewhere around the $200 million a year level in California. That probably represents about $550 million to $600 million a year, $200 million in education services represents, you know, 40 percent of our budget. So we still think that demand is high and will continue over time.

Senator **Graham**. Mr. Chairman, one last area of questions, if I may.

The budget submitted by HHS indicates that the Federal offset for Medicaid has grown from $70 million in fiscal year 1988 to an estimate $160 million in fiscal year 1991.

What will be the impact of that growth in the Federal cost of Medicaid on the budgets of States and what does that say about the extent of health services which this population is requiring?

Mr. **Concannon**. Senator, in response I would simply say that our experience at the State level is that the health care needs of this population, if anything, are understated at the outset of the program. I am not surprised by the increase in estimate made by HHS at the Federal level, in terms of Medicaid impact. Our heaviest cost center in our State has been on the health services side.

As I mentioned in my testimony earlier, this population tends to be a very needy, poorly educated, poorly served population in terms of health needs.

Now, the degree of impact of increasing Federal offset funds taken right off the top of the program, I cannot speak to that, other than certainly there is a paradox in it for me insofar as the Federal Government is estimating a significant increase in the amount of money it is going to be drawing down. At the same time, it is suggesting that the costs are levelling off at the State level. I just do not understand the math associated with that.

Ms. **Collins**. I might add that there was, in fact, a revision of the original $70 million down to $30 million. So, in fact, the growth is much more phenomenal that is being anticipated than was originally stated.

Also, remembering that Medicaid is a matching program, if there are $160 million on the Federal level, there is obviously $160 million out there at the State and local levels.

If you add that together with the fact that Los Angeles County alone—just one county—can say that we might have as high as $160 million in non-Medicaid eligible costs, we have already exceeded the $303 million.

Senator **Graham**. Those are indigent costs not reimbursed through Medicaid?

Ms. **Collins**. Right. Exactly.

Mr. **Avino**. In Florida, our 1988 Medicaid costs were less than $1 million. But in 1989, just in 1 year, the increase was more than double, to over $2 million. So that, I think, puts into perspective just what we are taking a look at, Senator.

Mr. **Helmar**. When we did our analysis of how much money was available to the States, the $3.5 billion, that had included an estimate of the escalation in the Federal costs of Medicaid, the increasing Federal offset. So our $3.5 billion that we believe is guaranteed to States under the operation of current law already takes into account the phenomenon of going from $70 million to $160 million over 4 years.

But I would like to follow up on the point Ms. Collins made. If you look at Federal Medicaid expenses, you have companion State Medicaid costs. If you look at California as any experience, our Medicaid costs for the current budget year are probably running at between 20 percent and 25 percent of my total program.

So if you take $160 million in State Medicaid costs as the companion to the Federal offset, and then you were basically to multiply that by four to include indigent health care and public health, to include education services, you can see that you are way above the $300 million level that is proposed in the administration's budget. I mean, you at least double that level, if not exceed it even greater.

That is in using California as an example. In California, though, I must point out that our Medicaid costs are not as great as our indigent health care costs at the local level because we have a very time honored and well structured local indigent health care program. In a lot of States, their Medicaid share would be greater than it is in California of their health budget. So we are talking, you know, $600 million, $700 million, or $800 million in estimation, just off the top of my head. Just using $160 million as the Federal Medicaid offset share, States can easily get to the $700 million or $800 million cost mark.

Senator GRAHAM. Thank you.

Thank you, Mr. Chairman.

Senator HARKIN. Thank you, Senator Graham.

Mr. Helmar, going back to your chart No. 1, where you point out the allocations and everything, looking at the bottom line on cash reserves, you show cash reserves for 1990 estimated at $1.172 billion. That's even after the changes we made this year, right?

Mr. HELMAR. Yes; that reflects only $300 million in appropriations for Federal fiscal year 1990.

Senator HARKIN. That's right. It reflects the shift that we made in this committee last year.

Mr. HELMAR. That's correct, sir.

Senator HARKIN. You still have $1.17 billion left over.

Mr. HELMAR. Within the next 3 months. Yes.

Senator HARKIN. Well, you are estimating that for the end of this period.

Mr. HELMAR. Yes; the end of this fiscal year.

Senator HARKIN. So it seems to me obvious that the changes that we made in this subcommittee in this fiscal year obviously did not impact the SLIAG program.

Mr. HELMAR. From a cash viewpoint, during Federal fiscal year 1990, they did not, sir.

Senator HARKIN. Thank you.

Now, in 1991, you show a cash reserve of $502 million for next year. That just about reflects the cuts, rather the shifts, that the administration is proposing in next year's budget. Why is it necessary to have a $502 million surplus when you are going to 1991 and you show another $207 million surplus?

Mr. HELMAR. Sir, let me explain how those surpluses are derived.

If you notice, the $1.1 billion at the end of this year is offset next year by $1.5 billion in payout; but then there is income to the program under current law of $800-plus million. So the difference between $1.1 million and $1.5 million, minus $800 million, gives us the reserve of about $500 million.

Senator HARKIN. I see that.

Mr. HELMAR. The payback in 1992 then would increase against the cost and leave us with a small reserve of about $200 million at the end of 1992. This means that in 1993, 5 years through a 7-year program in 1993, we get to a point where costs are unfunded at that point in time.

So I just basically straight-lined it, instead of zigzagging it all over the map there for you.

If you look at the model No. 2, the President's proposal, you can see—excuse me, that is chart No. 2—you can see that on that same scenario, Federal fiscal year 1991, States collectively are $36 million in costs exceeding their ability to draw down and there is no further funding for the program based upon the President's proposed rescission after that. So, midpoint through a 7-year program, States absorb totally the costs of the program.

The third model, though, shows what happens if there is a payback arrangement. Again, based upon the level of funding in the President's budgets, in 1991 States would still be in a cash deficit position of some $36 million.

Senator HARKIN. That's $36 million?

Mr. HELMAR. Yes; $36 million.

Then we would get income in from the payback that Congress has already authorized for 1991, but we would have expenses exceeding that. So we would have to make some decisions about which programs to fund, which programs not to fund, whether we cut levels of funding, whether we eliminate some programs for a short period of time—that whole start/stop planning mentality. When we make those decisions, then, on a payback of the 1991 funds in 1993, for example, you'd have more money coming in, but you would have also associated costs. So you're starting and stopping, starting and stopping programs over a 2½-year period. What you get when you do that is you erode the quality of services, the effectiveness of services, and you add to the costs of services.

We don't think that is something the Congress intended.

Ms. COLLINS. Mr. Chairman, may I also address that issue?

Senator HARKIN. Please.

Ms. COLLINS. That is a cash flow issue for local governments. Los Angeles County, as I said, is still waiting for $131 million in payments for outstanding claims. For the period ending June 30 of this year, we will have another approximately $70 million more worth of claims. Those are costs incurred. Those are people served.

That will be a total of $200 million that we have incurred in costs for which we have not received money. Some of those funds relate back to the 1987-88 fiscal year. We have a significant cash flow issue here in local governments. Quite frankly, that is costing us more money.

Our anticipated costs for interest alone—I said we're working on credit. We're borrowing. We're borrowing to fund this program. We have interest costs of approximately $15 million in the year currently ending, which are not SLIAG reimbursable, but are costs to the county of Los Angeles and have to be paid, and, therefore, take away from direct services to the residents of Los Angeles County.

Senator HARKIN. Let me just follow that up by asking this. Were there any programs in your State, California, for example, for which newly legalized aliens were ineligible before legalization but which they now can access because of their legal status?

Ms. COLLINS. In Los Angeles County, in terms of health and mental health services, which is what I can speak to, we have not, in fact, increased, that is, changed the services. What we have are increased numbers of services.

The services themselves—the outpatient, the inpatient, prenatal care, obstetrics, et cetera—are the same services that we had before.

Senator HARKIN. So they were eligible for those services before?

Ms. COLLINS. Anybody can come into the county of Los Angeles through the emergency room. We are the safety net, if you will. We are the provider of last resort.

If you come in, if you're in an automobile accident yourself, you will be served by the county of Los Angeles. It has nothing to do with financial ability.

Senator HARKIN. Are there any programs which they can now access because of the legal status which they could not access before?

Ms. COLLINS. In terms of health and mental health?

Senator HARKIN. In terms of anything. Anything.

Ms. COLLINS. Well, Mr. Helmar will need to speak to education.

Mr. HELMAR. Yes; I do believe there are, sir.

Most counties' general assistance programs, which is their local version of cash payment programs, require lawful residency. So these people can now access those programs under the general umbrella of California law, which the counties then set their standards of aid and care from.

So that is one particular program.

Senator HARKIN. Excuse me. What is that particular program?

Mr. HELMAR. General Assistance. It is for people that may need assistance with cash payments for housing, for food, for shelter. Counties operate in California a program for indigent people who do not qualify for either State funded programs, such as AFDC, at the State level, or federally funded programs for cash assistance, such as SSI or AFDC.

Ms. COLLINS. That is totally funded by the county of Los Angeles.

Mr. HELMAR. It is a totally county-funded cost. Most counties, in exercising their discretion under State statute, limited that to lawful, permanent residents, or lawful residents of the State of California.

So, an undocumented person does not get cash at the local level in California.

Sometimes they don't even get indigent health care. They will be served in an emergency situation by public facilities, by even private facilities in California.

But if they overcome their emergency situation and want to get routine care, some counties, again, under their exercise of law, can limit their care basically to lawful persons. Now that these people are newly legalized, they cannot not provide them that level of medical services if they would meet the income and resource requirements.

Ms. **Collins**. Another program that is not SLIAG reimbursable, but that does impact both the State and Federal Governments is AFDC, and we have the citizen children who, of course, are eligible for that program. We have seen significant growth in Los Angeles County in that particular program, which, although we cannot say categorically, we think is part of the Immigration Policy and Reform Act.

Mr. **Avino**. If I might make a point, Senator, we are dealing with a fairness issue over here. I say that because local government, at least from our point of view, we are not going to close out our hospitals for people who are undocumented aliens or people who are affected by the immigration policies of the United States.

We feel that we are going to be providing service to anybody within our jurisdiction who comes in and requires that emergency service.

The point that we are trying to raise from our local perspective is that we don't have any control over those immigration issues. Those are issues that the Federal Government has created and, as such, we feel that, from a fairness point of view, they have a responsibility to make sure that local government does not become the one who has to brunt the total cost of it, but that the Federal Government assumes the responsibility for those costs.

Mr. **Helmar**. Senator, in a final program that I think is of critical importance to the committee, at approximately the same time the Congress passed the Immigration Reform and Control Act, they were also passing the Omnibus Budget Reconciliation Act of 1986, which formally granted undocumented persons eligibility for limited Medicaid services. The legalization program provides newly legalized persons with eligibility for limited Medicaid services at about the same point in time.

Prior to that, people who were undocumented were not eligible for Federal Medicaid services. And so, that particular program there, if you want to call it a result of OBRA or a result of IRCA—they happened within 1 month of each other—that is a significant program increase in eligibility. These people can now receive Medicaid services where, prior to 1986, they could not.

Senator **Harkin**. Is that true in every State?

Mr. **Helmar**. I do believe so, sir.

Senator **Harkin**. Have any of you done any analyses of the tax revenues and other economic benefits that States and counties receive from legalized aliens, if any?

Ms. **Collins**. Well, speaking from a county perspective, there is very little in terms of that as an overall issue. For instance, sales tax would be one of the potential benefits when people buy. But the county, out of the approximately 7-percent rate, only receives about one-half of 1 percent. So any real benefit in that is very negligible.

We don't have a county income tax, so there is nothing of that nature.

Our property taxes will have not significantly increased because of this particular population. So we are dependent upon the State and Federal Government in many ways for that.

So, as a county government, we would not have benefited.

Senator **Harkin**. How about States? There is the State income tax.

Do you have a State income tax?

Mr. HELMAR. Yes, sir.

Ms. COLLINS. Yes; we do, sir.

Mr. HELMAR. We have not done a full-blown economic survey. What we have done is, in part of our survey of the needs of the population, we determined their employment status. We found out that probably about 85 percent of them are working people. Most of them, a large portion of them, work at least 50 weeks a year.

I think the median family net income—and this is for a family—ranges for pre-82's, between $400 and $450 a week, and for agricultural workers it is about $350 to $400 a week.

So that is about as far as we have gone, as far as the economic impact. That's as far as we have gone.

Senator HARKIN. Is that a legitimate question that I should be asking?

Mr. HELMAR. I don't know.

Senator HARKIN. Well, look at it this way. You have legalized aliens who are now taxpayers. They are now put on the tax rolls for the State. The State is now collecting taxes from them where they may not have been doing so before.

Mr. HELMAR. I believe States collect taxes on basically everybody who is employed, whether they are legal or not. Unless the payment is made under the table—even the provisions of IRCA, which granted people the ability, which sort of grandfathered people in without work authorization if they, you know, kept the same job since 1986—we're collecting Federal and State taxes on those people.

Mr. AVINO. Let me try to answer you this way, Senator. It is a fair question. But, at the same time, we were not the ones who created the immigration policies. We did not have a say in the immigration policies. But then, on the other hand, we don't have any control over where the people might want to go or not go.

So, in essence, we are bearing the brunt of that. I don't have the numbers for you in Dade County, but I can tell you that the economic impact on Dade County has been drastic, not only as it relates to the immigration wave that we are talking about, which is covered under SLIAG, but we are also talking about all of the illegal immigration going on right now. It does have a major impact on the community.

Senator HARKIN. Thank you all very much. We need to get on now to our next panel.

Panel three consists of Paul Hill, senior social scientist, Washington operations, for the Rand Corp.

I understand that Mr. Hill has been working on an as yet unpublished study covering the implementation of the SLIAG Program.

Mr. Hill, we welcome you to the subcommittee.

Please proceed.

STATEMENT OF PAUL HILL, SENIOR SOCIAL SCIENTIST, WASHINGTON OPERATIONS, THE RAND CORP.

ACCOMPANIED BY LIN C. LIU, ANALYST, THE RAND CORP.

Mr. HILL. Thank you, Mr. Chairman.

I am Paul Hill of the Rand Corp. With me is Lin Liu of the Rand Corp., who has been our principal analyst on SLIAG.

The study we have done has been funded by the Ford Foundation, and we have done it in cooperation with the Urban Institute.

Our report on SLIAG is based on a 2-year study in which we observed IRCA policy development and implementation in Washington, in district offices in the State capitals, as well as eight cities—Los Angeles, San Jose, Houston, El Paso, San Antonio, Miami, New York City, and Chicago. These cities represent nearly 90 percent of the eligible legalized alien population.

We found in the first 3½ years of SLIAG's operation that implementation has been much slower and more complicated than expected. The result is that far fewer ELA's have been assisted and with a much narrower range of services than was originally anticipated.

The flow of reimbursements to the States, especially in the first 2½ years, was very slow. These delays are due to several factors.

First is some confusion caused by the last minute legislative compromise over whether SLIAG was to be a cost reimbursement program or, alternatively, a block grant.

Second is time lags at the Federal level in the regulatory process, leading then to confusion at the State level about the regulations; also slowness on the part of States in establishing their own policy development and administrative structures.

In part, this was because SLIAG required States to coordinate across what were traditionally separate lines of State administration.

Third, SLIAG incorporated unusually complex requirements for determining client eligibility in services and documenting costs. In particular, many services that were usually classified as "public health" were classified under SLIAG as "public assistance," requiring service delivering agencies to do a level of verification they were not geared up to do, and requiring many of them to decide whether they could carry the costs of a new verification scheme, given the low volumes of reimbursement they might expect.

Finally, problems at the Federal and State levels impeded the implementation efforts of local and community service providers. Local providers are still not sure what they could be reimbursed for and when, and some are in financial difficulties because of services rendered to ELA's in good faith expectation of reimbursement.

Based on our research, we conclude that the surplus in SLIAG's accounts does not prove that States, localities, and ELA's need less assistance than was originally expected. In fact, our research shows that the slow rate of spending is due to factors other than the lack of demand, really, administrative factors, which are remediable.

We find that the problems I mentioned a few seconds ago, many of which are common for programs that require new policy development, are, indeed, getting remedied now.

Further, in looking at the congressional discussions, it was clearer that people understood that this complicated administrative structure would not spring into being immediately, and that was one of the reasons for the 7-year life of the original appropriations.

In general, from what we have seen—and I have to say that we don't have any independent assessment of expenditure rates, other than what was delivered by the States already—but from what we have seen of those expenditure rates, it seems clear that the entire appropriation for SLIAG of $4 billion over 4 years will ultimately be expended for the purposes anticipated by the expiration of the program in September 1990.

PREPARED STATEMENT

Mr. Chairman, that completes our prepared statement. We have a more extensive statement that I have submitted to the committee.

Ms. Liu and I will be glad to answer any questions.

[The statement follows:]

STATEMENT OF PAUL HILL

Mr. Chairman, I am Paul Hill of the RAND Corporation and this is Lin Liu, also of RAND. Also accompanying us is Michael Fix of the Urban Institute. Michael and I co-directed a joint RAND-Urban Institute study of the implementation of IRCA. Lin Liu is our principal analyst on SLIAG issues.

With a grant from the Ford Foundation, RAND and the Urban Institute established the Program for Research on Immigration Policy in 1988. One of the Program's first projects was a national study of the implementation of IRCA, the Immigration Reform and Control Act of 1986. Our study of SLIAG is part of the implementation project. We have already published a report on implementation of employer sanctions, and we expect to publish reports on SLIAG and other IRCA programs within the next few months.

Our report on SLIAG is based on a two-year study in which we observed IRCA policy development and implementation in Washington, federal regional and district offices, state capitals, and eight cities with large numbers of immigrants. Those cities were Los Angeles, San Jose, Houston, El Paso, San Antonio, Miami, New York City, and Chicago. Together those cities contain the vast majority of all the aliens eligible for legalization under IRCA; the states of California, Texas, Florida, New York, and Illinois were expected to receive a total of 87% of all SLIAG funds.

We conducted two complete waves of field work, interviewing over 600 people in Congress, national headquarters and regional office staff of the Immigration and Naturalization Service and other executive agencies, state and local governments, local INS staff, local immigration lawyers, advocates, and service providers, and employers.

OVERVIEW

Congress established the State Legalization Impact Assistance Grants (SLIAG) as part of the Immigration Reform and Control Act (IRCA) of 1986. Two of IRCA's provisions, legalization and the Supplemental Agricultural Workers Program (SAWs) granted legal status to large numbers of previously undocumented aliens. (As of today a total of 2.2 million legalization applications have been approved). SLIAG was a companion provision to these programs, intended to:

- reimburse state and localities for the costs of providing public assistance, public health and education services to eligible legalized aliens (ELAs); and
- ensure basic public health, welfare, and education services for

ELAs, including the English and civics classes they needed to become permanent residents.

Congress appropriated $1 billion annually for four years for this program, but authorized spending for seven years. SLIAG has now been in operation for three years.

FINDINGS

In the first three and one-half years of SLIAG's operation, implementation has been much slower and more complicated than expected. The result is that far fewer ELAs have been assisted, and with a much narrower range of services, than originally anticipated. The flow of reimbursements to the states has also been very slow and, consequently, the program has a large surplus of unexpended funds. The five states we studied have been able to get approval to spend only 5% of the appropriated funds for costs that were eligible in FY87/88 and FY89 even though their estimated SLIAG-related expenditures have been much higher. After two full years of operation, with a total of $2 billion appropriated, the national SLIAG account still contains over $1.5 billion. These delays are due to several factors:

- SLIAG was enacted through a last-minute compromise in which members of the House and Senate resolved a fundamental conflict about whether it was to be a virtually unrestricted block grant to states or a tightly controlled cost reimbursement program. Because the compromise language emphasized tight control of expenditures, an outcome the executive branch did not anticipate, the Department of Health and Human Services (HHS) had to build a rigorous administrative structure with very little advance preparation.
- Time lags at the federal level led to further delays at the state level. States were slow establishing their own policy development and administrative structures, in part because SLIAG required them to coordinate policy across traditionally separate areas of state administration.
- SLIAG implementation was complicated because it covered a wide spectrum of public assistance, public health and education programs operating at very different levels, each of which required different procedures for establishing client eligibility and cost accounting.
- Problems at the federal and state levels impeded the implementation efforts of local and community service

providers. Local providers are still not sure what they can be reimbursed for and when, and some are in financial difficulties because of services rendered to ELAs in good faith expectation of reimbursement.

OUTCOMES TO DATE

The table below summarizes SLIAG funding and spending to date for the five states we studied.

These five states have been able to get approval for $85.3 million of their expenditures, less than 5% of total funds available to them under the SLIAG allocation formula.

In light of this large budget surplus, both Congress and the executive branch have sought to divert SLIAG funds for other purposes, eg. resettling Soviet Jewish refugees and supporting the War on Drugs. Though these proposals were rejected, Congress agreed in October 1989 to cut SLIAG funding by $555 million in the FY90 Labor-Health and Human Services-Education appropriations bills, to be restored in FY92. In the current budget cycle, SLIAG funding has once again become an issue. The President's FY91 budget proposes to cut another $537 million from SLIAG's FY91 appropriations and further proposes not to restore the $555 million diverted in FY90.

Table

SLIAG FUNDING AND APPROVED SPENDING, FY87/88 & FY89

(in millions)	Total Available	States' Estimate of Costs	Approved Costs	Unobligated Funds
FY87/FY88	$820.9	$510.9	$15.7	$805.2
FY89	$787.3	$100.9	$69.6	$717.7
	$1608.2	$611.8	$85.3	$1522.9

Source: Division of State Legalization Assistance, Department of Health and Human Services.

Based on our research we conclude that the large surplus in SLIAG's accounts does not prove that states, localities, and ELAs need less assistance than expected. In fact, our research shows that the slow rate of spending is due to factors other than the lack of demand for services by ELAs or by the lack of effort on the part of states and localities to provide services and obtain reimbursements. We find that problems identified above, many of which are common for programs that require the development of new service delivery and accounting mechanisms and coordination among multiple administrative agencies, frustrated SLIAG providers' efforts in the initial stages of implementation and retarded SLIAG's spending rate. SLIAG's congressional framers expected program implementation to be retarded by these difficulties and therefore proposed to allow the money appropriated in the program's four years to be spent over a total of seven years.

However, SLIAG implementation is now getting on course. Implementers have been able to improve their procedures for service administration and cost recovery; and ELAs have demanded more services. These trends are likely to lead to growth in demand for SLIAG resources, significant improvements in service providers' ability to justify costs, and substantial increases in the transfer of funds from the federal treasury to the states. States and localities predict that the need for SLIAG resources will ultimately exceed the amount of appropriated funds. Despite the low rate of expenditures in the first few years, all of the appropriated funds may well be expended, and for the purposes originally intended, by the time SLIAG's appropriations lapse on September 30, 1994.

Mr. Chairman, that concludes our testimony. We will be glad to answer the Committee's questions.

1986 AGREEMENT

Senator HARKIN. Thank you very much.

Again, I would first defer to Senator Graham for any questions that he would like to ask.

Senator GRAHAM. Thank you, Mr. Chairman.

Mr. Hill, I very much appreciate your statement and its summary.

I wonder if, in studying the history of this program, going back to the negotiations that led up to the 1986 agreement, you could give us what your research has indicated the expectations were in terms of (1) the spend-out over the 7-year period, and (2) the degree of the Federal offset, how much of the total funds available would be utilized for Federal, direct expenditures, with the residue then being available for State grants.

Mr. HILL. I would mention two things about the negotiations history.

One, there was real difference between the House and the Senate about whether SLIAG was expected to be a block grant or expected to be tightly connected to verifiable costs, and, combined with that uncertainty, was whether SLIAG would have a specific financial ceiling or, instead, would be an open-ended entitlement, in a sense, based on experience costs; and the final resolution, which was that it would be a $4 billion capped program, but tightly regulated with respect to cost reimbursement, was a possible conclusion of the discussions, but not one that was widely foreseen. As a result, HHS and the States were quite surprised to find that the reimbursement requirements that they found in the statute—excuse me—that the verification requirements they found in the statute were as difficult to meet as they were.

The only other comments I can make about the negotiations were that it was expected that costs could rise over time and, therefore, there was no specific expectation that most of the costs would be borne in the first few years. It was equally likely they could all be borne in the last few of that 7-year cycle.

Your last question was what, Senator?

Senator GRAHAM. It was relative to what the expectation was on the degree of the Federal offset?

Mr. HILL. I cannot comment on that.

Ms. LIU. I'm sorry, but I can't comment on it, either.

Mr. HILL. We could go to the record for that. But I think those expectations were quite varied as well.

Senator GRAHAM. In terms of what the expectations were in 1986 of the total cost of the program, would you say that the experience of the first 4 or 5 years has been more or less consistent with those projections or significantly at variance, and, if so, whether on the high or low side?

Mr. HILL. I don't think anyone expected it to be quite so difficult for the States to recover the costs they were incurring, and, certainly, the local public service providers did not expect to encounter such delays and such difficulties, even in proving eligibility for services.

So I think it is probably correct for everyone involved that the rate of actual reimbursements to this date has been much more slow than expected. But, as we said in our earlier testimony, that surprise I think was almost entirely due to confusion at the Federal level and to the difficulty at the State and Federal levels of building new administrative procedures, and had nothing to do with the demand for services at the local level.

Ms. LIU. When this law was being passed, what happened was OMB and the CBO both could not come up with really good numbers on how much States and localities were expected to expend because they didn't have the correct numbers about number of eligible aliens and about what services they could possibly access. And when Congress designed this as a categorical program, they weren't really sure what type of programs they were going to be able to give to the ELA's. In that sense, when Congress came up with the $4 billion, it was more or less of a political decision, rather than something based on analysis in the past.

Mr. HILL. And, in fact, it was practically beyond analysis. No one knew how many ELA's there would be. Certainly no one anticipated the number of SAW's. Those two things made it perfectly reasonable to make a political estimate of $4 billion. But I don't think anybody had explicit expectations about how quickly that $4 billion would be used up, except that somehow or other it probably would be gone by the end of 7 years, an expectation that I think experience will bear out as being fairly accurate.

Senator GRAHAM. The administration has recommended a reduction of this program from the $4 billion cap to a $2.4 billion cap. What, from your research, would be the implications of that level of Federal reduction?

Mr. Hill. We certainly would expect that fewer of the services being delivered to ELA's by a local agency would be reimbursed. It's simply a matter that States and localities would bear greater burdens for services that will be delivered one way or another if, in fact, the SLIAG funds are reduced.

We are not in a position to evaluate the relative needs of Soviet immigrants or recent ELA's. The administration may have other priorities that are important. But the simple fact is that the costs for SLIAG-eligible ELA's are almost certainly going to be at the level expected. Therefore, any reduction in the SLIAG program will, in a sense, shift costs toward the States and localities.

Senator Graham. Thank you, Mr. Chairman.

Senator Harkin. Thank you, Senator Graham.

The administration has argued that the legalized aliens being served by the SLIAG program are generally nonwelfare, a hard working population, and they generate significant tax revenues for State and local governments.

They also contend that IRCA never intended to cover all the costs associated with the legalization process.

Again, I would ask you the question I asked earlier. Do you have any estimate of how much legalized aliens contribute to the economy, in terms of State and local tax revenues? Have you done any research into that at all?

Mr. Hill. Both Rand and the Urban Institute have done estimates of this in the past, the most recent one done by the Urban Institute.

Both concluded that the total tax revenues contributed by alien workers, legal and nonlegal, were somewhat in excess of the direct charges for public welfare and health services to those people. Of course, there are all kinds of other services that people consume—highways and telecommunications and the like—that are not directly traceable to individuals. But the one exception to those findings has been that, though alien workers contribute at least as much as they consume in terms of services, that's true if you don't count the costs of education. The costs of education, when they are added, are much greater. I'm sorry that I can't quantify that. But the experience of some of the heavily impacted school districts is telling.

Los Angeles County School District, for example, is being forced to eat a $100 million cost shortfall in the academic year that is just ending. That is almost entirely due to the children of ELA's or other immigrants.

Senator Harkin. Of the total amount that has gone out, what has gone out for education? What is the proportion, if you know?

Mr. Hill. I'm sorry, but I cannot give you that answer. But we can find it.

Senator Graham. The number that you would have would be that which went specifically to the ELA's for participation in programs in which they directly benefitted, as distinct from the cost of their children attending public schools?

Mr. Hill. Yes; those are very different numbers.

The total costs of elementary and secondary education for ELA's and their children is vastly larger than the amount being spent for adult education for legalization purposes.

Senator HARKIN. But their children would have been eligible to go to public schools in any case?

Mr. HILL. Oh, in any case. That's correct.

Senator HARKIN. So that's the same thing. Their kids were eligible for public education when they were illegal aliens, as when they are legal aliens.

Senator GRAHAM. But it goes to the question of whether this population is a net economic benefit or a net economic cost to the community.

Senator HARKIN. I understand that. And that is one part of my question, that point. The other point is in terms of the services, about which I asked earlier, and we'll get some more information on that. But education was one additional thing, not in terms of the children and the public school education, but in terms of the requirement for the pre-82's to meet the English language and civics requirements that was in the bill.

Mr. HILL. We can find you an estimate of those costs. I cannot give you a good one today.

Senator HARKIN. If you have something handy, I would like to see it.

Mr. HILL. Yes, sir.

Senator HARKIN. What is your view of the extent to which the SLIAG authorization legislation was intended to cover the costs of the process?

Mr. HILL. The costs of which process, Senator?

Senator HARKIN. Of the legalization process.

Mr. HILL. I don't believe, to our understanding, that the SLIAG appropriation was meant to cover, certainly not the Government's operating costs, not necessarily the costs of the legalizing aliens, not necessarily the outreach costs of other agencies. They were all, to our understanding, meant to cover the public service costs generated by demand from legalized aliens, but not the processing costs of legalization itself.

Senator HARKIN. Do you have any data that shows that legalized aliens are using services more now than before they obtained legal status?

Ms. LIU. I think studies in the past have documented that, as a population becomes more assimilated into the community and they found out more information about what public services are available to them, that these costs will increase in the future. But we have not done anything specific for this ELA population. But I think other studies have shown that, for the Hispanic population, the trend has been on the increase in the future years.

Mr. HILL. The only evidence we have seen further that bears on that is, as ELA's take advantage of their legal status to get better jobs, more of them are covered by health insurance over time. So some of their public health costs are reduced. But, on the other hand, there was a strong tendency of newly legalized people to put their children into school, children whom they had tried to keep in private school, teach at home, hide from the authorities, for fear that that would be a way that the parents' illegal status would be discovered.

Once parents were securely legalized, they sent children to school.

Senator HARKIN. Thank you both very much.

STATEMENT OF RICHARD KUSSEROW, INSPECTOR GENERAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES

ACCOMPANIED BY GEORGE GROB, ASSISTANT INSPECTOR FOR ANALYSIS OF INSPECTIONS, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Senator HARKIN. I would like to call on our last panel: Sarah Jagger, Director of Human Resources, General Accounting Office, and Mr. Richard Kusserow, the Inspector General for the Department of Health and Human Services.

I have asked both of these offices to update the work they have done on the SLIAG program, specifically addressing the appropriations amount necessary to reimburse the States for costs expected to be approved through fiscal year 1991. Second, I asked these agencies to give us their independent assessments of the appropriations requirements for the years beyond 1991 through the completion of the program.

We will begin the panel testimony with Inspector General Kusserow.

Mr. Kusserow, you have been a frequent guest before this subcommittee. Your contributions have always been extremely valuable. We appreciate your being here today.

Please proceed.

Mr. KUSSEROW. Thank you, Mr. Chairman.

First, if I may, I would like to introduce George Grob, our Assistant Inspector General for the Office of Evaluations and Inspections, whose staff has been performing a number of studies in this area, including the one that your subcommittee had requested us to do in this area.

Also, I would like to take advantage of your previous offer that the witnesses could highlight their testimony and then submit their written testimony for the record for the sake of time.

PREPARED STATEMENT AND REPORT

Senator HARKIN. I would appreciate that very much.

Mr. KUSSEROW. Also, Mr. Chairman, with your permission, I will go ahead and submit the report formally to the committee, for the record, that you requested us to undertake in looking at the SLIAG program and the funding.

Senator HARKIN. We will make that a part of the record.

[The information follows:]

STATEMENT OF RICHARD P. KUSSEROW

GOOD MORNING, MR. HARKIN AND THE MEMBERS OF THE SUBCOMMITTEE. I AM RICHARD P. KUSSEROW, INSPECTOR GENERAL FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES. I AM HERE THIS MORNING AT YOUR REQUEST TO SHARE WITH YOU THE FINDINGS FROM OUR RECENT WORK ON STATE LEGALIZATION IMPACT ASSISTANCE GRANT (SLIAG) EXPENDITURES. WITH YOUR PERMISSION, I WOULD LIKE OUR ENTIRE REPORT SUBMITTED FOR THE RECORD. I WOULD ALSO LIKE TO SUBMIT FOR THE RECORD OUR EARLIER REPORTS CONCERNING THE IMPLEMENTATION OF SLIAG. THAT REVIEW PRODUCED A SERIES OF REPORTS ON SLIAG IMPLEMENTATION IN 10 STATES, AND AN OVERVIEW REPORT. IN THE LATTER REPORT, WE RECOMMENDED REDUCING THE FY 1991 APPROPRIATIONS BY $500 MILLION.

WE FOCUSED OUR REVIEW ONLY ON THE STATE PORTION OF SLIAG EXPENDITURES. BEFORE I DISCUSS OUR REVIEW, I THINK IT MIGHT BE HELPFUL TO TELL YOU WHAT WE DID NOT STUDY. WE DID NOT ADDRESS THE ISSUE OF HOW MUCH ASSISTANCE THE FEDERAL GOVERNMENT SHOULD PROVIDE TO STATES FOR SLIAG EXPENDITURES. THE CONGRESS HAS ALREADY APPROPRIATED $4 BILLION DOLLARS TO HELP MITIGATE THE COSTS THE FEDERAL GOVERNMENT AND STATES MAY INCUR FOR LEGALIZED ALIENS DURING THE PERIOD 1987-1994. I AM NOT HERE TO PROPOSE TAKING AWAY ANY OF THIS AMOUNT. THE ISSUE WE WERE ASKED TO ADDRESS IS HOW MUCH OF THE $4 BILLION TO MAKE AVAILABLE IN FY 1991.

AT THIS TIME IT IS CLEAR THAT NO ONE KNOWS WITH GREAT CERTAINTY THE ACTUAL AMOUNT OF MONEY NEEDED TO OFFSET STATES' COSTS IN FY 1991 OR ANY OTHER FISCAL YEAR -- NOT THE STATES, NOT THE FAMILY SUPPORT ADMINISTRATION, AND NOT MY OFFICE. WE CAN MAKE ESTIMATES BUT THEY ARE SOFT AND THEY COVER A WIDE RANGE. FOR THIS REASON, I PROPOSE THAT THE CONGRESS ADOPT A CONSERVATIVE STRATEGY IN DISTRIBUTING MONEY TO THE STATES, ONE THAT WOULD MORE CLOSELY ALIGN THE DISTRIBUTION OF FUNDS TO THE TIME PERIOD DURING WHICH COSTS ARE INCURRED.

AS INSPECTOR GENERAL FOR THIS DEPARTMENT I AM CONCERNED ABOUT APPROPRIATIONS FOR ALL HHS PROGRAMS. THE SLIAG FUNDING PROCESS CAUSES UNUSUAL CONCERN BECAUSE IT IS UNLIKE MOST OTHER FEDERAL PROGRAMS. SLIAG FUNDS WERE APPROPRIATED BY THE AUTHORIZING STATUTE WITHOUT BEING SUBJECTED TO THE NORMAL CONGRESSIONAL BUDGET AND APPROPRIATION PROCESS; THE APPROPRIATIONS WERE MADE IN FY 1986 FOR YEARS FYs 1988 THROUGH 1991; AND THEIR DRAW DOWN WAS PERMITTED THROUGH FY 1994. IN MY VIEW, THIS TYPE OF APPROPRIATION VIOLATES THE WELL ESTABLISHED FINANCIAL MANAGEMENT PRINCIPLE THAT FUNDS SHOULD BE MADE AVAILABLE AS CLOSELY AS POSSIBLE TO THE TIME WHEN THEY ARE NEEDED. FAILURE TO DO SO ARTIFICIALLY INCREASES BUDGET DEFICITS AND IT INCREASES THE POTENTIAL FOR WASTEFUL EXPENDITURES OR INFLATED CLAIMS OF ACTUAL COSTS. I BELIEVE THE ADMINISTRATION'S PROPOSAL TO DECREASE THE FY 1991 APPROPRIATION BY $537.4 IS CONSISTENT WITH SOUND FINANCIAL MANAGEMENT PRINCIPLES.

FOR SLIAG, A CONSERVATIVE APPROACH IS INDICATED BY THE RELATIVELY SMALL STATE DRAWNDOWNS TO DATE. THROUGH APRIL 30, 1989, THE STATES HAVE DRAWN DOWN ONLY $682.9 MILLION OF THE $1.8 BILLION ALLOTED TO THEM FOR FYs 1988 AND 1989. ALTHOUGH THE AMOUNT DRAWN DOWN HAS TRIPLED SINCE JUNE 1989 WHEN WE LAST EXAMINED THIS ISSUE, THE STATES' NEEDS WOULD STILL BE WITHIN THE ADMINISTRATION'S PROPOSED BUDGET EVEN IF THEY AGAIN TRIPLE THEIR DRAW DOWN IN FY 1991.

NOW I WILL EXPLAIN IN DETAIL HOW WE CONDUCTED OUR REVIEW AND MADE OUR ESTIMATES. WE OBTAINED CURRENT ESTIMATES FROM NINE STATES AND THE DISTRICT OF COLUMBIA, WHICH TOGETHER WERE ALLOTTED 92.8 PERCENT OF THE GRANT FUNDS THROUGH FY 1989. WE OBTAINED INFORMATION ON ESTIMATED, ACTUAL, AND ANTICIPATED ACTUAL COSTS FOR THE FYs 1987-1994. ADDITIONALLY, WE OBTAINED THE LATEST DRAW DOWN FIGURES FROM THE FAMILY SUPPORT ADMINISTRATION (FSA) AND CURRENT DATA FROM THE IMMIGRATION AND NATURALIZATION SERVICE (INS) ON THE NUMBER OF APPROVED, DENIED, AND PENDING APPLICATIONS FOR LEGALIZATION.

BASED ON OUR REVIEW, WE HAVE COME UP WITH THE FOLLOWING FINDINGS.

FIRST, **STATE ESTIMATES OF COSTS ARE SOFT AND COVER A WIDE RANGE**.

THE COST FIGURES FOR THE STATES HAVE BEEN CHANGED A NUMBER OF TIMES. ALL STATES BUT NEW YORK REPORTED A DECREASE IN THEIR PROJECTED ACTUAL COSTS FROM THEIR ORIGINAL ESTIMATE, WITH THE DECREASE RANGING FROM 16.5 PERCENT IN CALIFORNIA TO 87.8 PERCENT IN FLORIDA.

THE ORIGINAL ESTIMATES PROVIDED BY THE STATES WERE SPECULATIVE BECAUSE LITTLE WAS KNOWN ABOUT THE NUMBER OF ALIENS WHO WOULD APPLY FOR LEGALIZATION OR THE DEGREE TO WHICH THEY WOULD PARTICIPATE IN SLIAG FUNDED SERVICES. THOUGH THE ELIGIBLE ALIEN POPULATION IS NOW BETTER DEFINED, THE STATES HAVE YET TO PRODUCE VALID EMPIRICAL DATA ON THEIR PARTICIPATION OF LEGALIZED ALIENS IN ALL SLIAG FUNDED PROGRAMS TO SUPPORT THEIR COST ESTIMATES.

SECONDLY, **MANY UNCERTAIN FACTORS AFFECT THE ESTIMATES**.

THE MAJOR TWO OF FACTORS CONTRIBUTING TO UNCERTAIN COST PROJECTIONS THROUGH FY 1994 ARE THE ELIGIBLE POPULATION AND THE PARTICIPATION RATE.

WITH REGARD TO ELIGIBLE POPULATION, NEITHER INS, FSA OR THE STATES HAD RELIABLE DATA ON THE NUMBER OF POTENTIALLY ELIGIBLE INDIVIDUALS WHEN THE STATES' ORIGINAL COST ESTIMATES WERE PREPARED. THIS UNCERTAINTITY IS FURTHER COMPOUNDED BY THE FACT THAT AN UNKOWN BUT POTENTIALLY SIGNIFICANT PERCENTAGE OF LEGALIZED ALIENS MAY DROP OUT OF SLIAG FUNDED PROGRAMS (PARTICULARLY EDUCATION) AS THEY ACHIEVE PERMANENT RESIDENCY.

FINALLY, THE LEGALIZED ALIENS ARE ELIGIBLE FOR SLIAG FUNDED SERVICES FOR ONLY A FIVE YEAR PERIOD, WHICH WILL RESULT IN A RAPIDLY DECLINING ELIGIBLE POPULATION BEGINNING IN 1992. MANY STATES FAILED TO RECOGNIZE THIS DIMINISHING POPULATION IN MAKING THEIR COST PROJECTIONS.

AS TO PARTICIPATION RATES, STATES REPORT LOWER THAN ANTICIPATED PARTICIPATION RATES IN CASH ASSISTANCE PROGRAMS, BUT HIGHER THAN EXPECTED UTILIZATION OF MEDICAL ASSISTANCE PROGRAMS. HOWEVER, THERE IS LITTLE EMPIRICAL DATA TO SUPPORT THESE ASSERTIONS. MANY STATES REPORT A DECLINING ENROLLMENT IN EDUCATION COURSES. THE FSA FOUND STRONG INDICATIONS DURING THEIR RECENT MONITORING OF CALIFORNIA SLIAG ADMINISTRATION THAT PRIVATE CONTRACTORS ARE DROPPING SLIAG COURSES DUE TO LOW ENROLLMENT.

THE LEGALIZED ALIEN PARTICIPATION RATE IN PUBLIC ASSISTANCE PROGRAMS IS MOST CERTAINLY AFFECTED BY THEIR EMPLOYMENT RATE. TWO INDEPENDENT STUDIES BY PRIVATE RESEARCHERS IN CALIFORNIA AND MARYLAND HAVE SHOWN THAT 70 TO 80 PERCENT OF LEGALIZED ALIENS ARE WORKING AND HAVE INCOME SIGNIFICANTLY ABOVE POVERTY LEVELS, AND THAT 30 TO 50 PERCENT HAVE PRIVATE MEDICAL INSURANCE. MOREOVER, THESE STUDIES REPORT THAT THESE INDIVIDUALS ARE MAKING LITTLE USE OF PUBLIC ASSISTANCE PROGRAMS.

THIRDLY, **THE MOST UNPREDICTABLE FACTOR, AND THE ONE CAUSING THE WIDEST SWING IN THE ESTIMATES, IS IDENTIFYING INDIVIDUALS WHO RECEIVED SLIAG FUNDED SERVICES**.

MANY STATES PROHIBIT PUBLIC ASSISTANCE AND PUBLIC HEALTH ASSISTANCE AGENCIES FROM INQUIRING ABOUT AN APPLICANT'S ALIEN STATUS. ACCORDINGLY, THESE STATES CANNOT DETERMINE ACTUAL COSTS IN THESE PROGRAMS AND MUST RELY ON INDIRECT METHODS TO

ESTIMATE PARTICIPATION RATES AND COSTS. ALTHOUGH THE FSA AND INS DEVELOPED A COST DOCUMENTATION SYSTEM (CDS) IN JUNE 1989 TO RESOLVE THIS PROBLEM, MOST STATES ARE ONLY NOW BEGINNING TO ACTIVELY USE IT.

THE FSA IS ASSISTING THE STATES IN DEVELOPING MUTUALLY ACCEPTABLE SAMPLING TECHNIQUES TO DETERMINE ELIGIBLE ALIEN PARTICIPATION. IN REVIEWING THESE PROPOSED SAMPLING TECHNIQUES, FSA HAS IDENTIFIED A NUMBER OF METHODOLOGICAL WEAKNESSES THAT THE STATES ARE WORKING TO RESOLVE.

FOURTH, **FSA AND THE STATES WILL PROBABLY HAVE RELATIVELY SOLID ESTIMATES WITHIN ONE YEAR**.

THE STATES USE OF THE COST DOCUMENTATION SYSTEM AND SAMPLING INITIATIVES TO DOCUMENT PARTICIPATION RATES AND COSTS THROUGH FY 1990 SHOULD BE COMPLETE BY THE END OF CALENDAR YEAR 1990. THEREFORE, FSA AND THE STATES WILL THEN BE IN A MUCH BETTER POSITION TO RELIABLY PROJECT FUTURE COSTS BASED ON EMPIRICAL DATA.

FINALLY, **WE ESTIMATE THAT THE AMOUNT OF APPROPRIATIONS NEEDED FOR THE STATES' PORTION OF SLIAG IN FY 1991 IS BETWEEN $0 AND $459 MILLION**.

OUR ESTIMATES ARE BASED ON A MODEL WE DEVELOPED TO PROJECT FY 1989 COSTS. THE MODEL ENABLES US TO MAKE PROJECTIONS TAKING INTO ACCOUNT INFLATION, THE NUMBER OF LEGALIZED ALIENS, AND THE ANTICIPATED DECLINE IN EDUCATION SERVICES. WE USED OUR MODEL TO MAKE TWO PROJECTIONS. THE FIRST PROJECTION WAS BASED ON THE STATES' ESTIMATE OF COSTS WHICH THEY EVENTUALLY HOPE TO CLAIM FOR SERVICES PROVIDED IN FY 1989. USING THIS PROJECTION, WE ESTIMATE THAT $2.58 BILLION IS REQUIRED TO COVER ALL 42 STATES' COSTS FOR FYs 1987-1991, AND THAT AN ADDITIONAL $1.1 BILLION WOULD BE REQUIRED FOR FYs 1992-1994. THE CRITICAL VARIABLE IN

OUR PROJECTIONS IS THE STATES' 1989 ANTICIPATED ACTUAL COST. THIS BASE YEAR DATA IS ONLY AS GOOD AS THE STATES' ABILITY TO ACCURATELY IDENTIFY PARTICIPATING LEGALIZED ALIENS, AND THE STATES ARE ONLY NOW BEGINNING TO DOCUMENT THAT PARTICIPATION RATE.

OUR SECOND PROJECTION IS BASED ON THE STATES' DRAW DOWNS TO DATE, $682.9 MILLION. USING THIS BASELINE, WE ESTIMATE THAT $1.4 BILLION WOULD BE REQUIRED TO COVER THE STATES' COST FOR FYs 1987-1991. SINCE $2.1 BILLION HAS ALREADY BEEN APPROPRIATED THROUGH FY 1990, NO ADDITIONAL APPROPRIATION WOULD BE NEEDED IN FY 1991.

WE BELIEVE THE ACTUAL EXPENDITURES IN FY 1991 WILL LIE SOMEWHERE BETWEEN OUR TWO ESTIMATES.

HOWEVER, I BELIEVE THAT THE CENTRAL ISSUE IS NOT WHAT THE CORRECT ESTIMATE IS, BUT RATHER WHAT APPROPRIATION TACTIC TO ADOPT IN THE FACE OF UNCERTAINTY, AN UNCERTAINTY WHICH IS LIKELY TO BE RESOLVED WITHIN A YEAR. SOUND FINANCIAL PRINCIPLES CALL FOR A CONSERVATIVE APPROPRIATION. THE STATE PROJECTIONS HAVE CONSISTENTLY OVERESTIMATED BUDGET NEEDS. THE STATES' DRAW DOWNS CONTINUE TO REMAIN CONSIDERABLY BELOW ESTIMATED AND PROJECTED COSTS. A LARGE APPROPRIATION COULD BE AN INCENTIVE TO EXCESSIVE AND WASTEFUL EXPENDITURE. MOREOVER, ANY DEFICIENCY CAN BE CORRECTED IN SUBSEQUENT APPROPRIATIONS.

WE, THEREFORE, CONTINUE TO SUPPORT OUR EARLIER RECOMMENDATION TO REDUCE THE FY 1991 APPROPRIATION BY $500 MILLION. IN FACT, BASED ON DRAW DOWN EXPERIENCE TO DATE, A STRONG CASE COULD BE MADE FOR FURTHER REDUCTION IN APPROPRIATIONS, EVEN NO APPROPRIATION AT ALL FOR FY 1991. THIS WOULD ALLOW THE STATES TO CATCH UP ON THEIR DRAW DOWNS TO WHAT HAS ALREADY BEEN APPROPRIATED.

Mr. Kusserow. We have, in fact, been producing a series of studies in this general area, including reviewing individual States on the implementation of SLIAG. We also were asked by this subcommittee to look at the drawdowns by the States against the appropriation to insure the fact that there is a sufficient amount of money available to pay for the program and meet the promise that Congress had made.

What we were not asked to do and what we have not done is to make recommendations that would cut the overall appropriation of $4 billion for this program or in any way, reduce services. We are merely here to look at how much of that $4 billion needs to be available in fiscal year 1991. I will limit my comments, at least in the testimony, directly to that point.

The first point I would like to highlight, Mr. Chairman, is the fact that, currently, the drawdowns have not been meeting what has been available through appropriations and, consequently, it does create an artificial impression that the deficits are greater than they actually are. The fact is that the money has not been expended.

We had suggested, as a general approach, as indicated by our work, that the drawdowns are fractional for what has been available. Through April 30, 1989, the States have drawn down only $682 million of the $1.8 billion allotted to them for fiscal years 1988-89. Although the amounts that have been drawn are now increasing and have tripled in rate from the startup point. The fact of the matter is, even if it tripled again, there would be enough money available in 1991, should the Congress endorse the administration's recommendation for appropriation.

In doing our work, we obtained information based upon estimated, actual, and anticipated costs for the fiscal years 1987 through 1994. We went to 10 States and the District of Columbia, which represented about 93 percent of the outlays in this program.

We additionally obtained the latest drawdown figures from the Family Support Administration and current data from the Immigration and Naturalization Service on the number of approved, denied, and pending applications. Based upon that review, we will make some observations.

First is that the State estimates of cost are soft and they cover a wide range; and that we also have noticed that all States, but New York, have reported a decrease in their projected actual costs from their original estimates that had been given to the Congress, with the decrease ranging from minus 16.5 percent in my native State of California, to minus 87.8 percent in Florida.

The original estimates provided by the States were speculative. I am sure that I don't need to tell this subcommittee that.

Congress did appropriate what they felt would be needed. If they were going to err, they wanted to err on the side of the States to be sure that they would not be harmed by the process.

A second observation that we make is that many uncertain factors affect State estimates. Two factors contributing to uncertain cost projections through fiscal year 1994 are the eligible population and the participation rate above that population. We really see that there is no reliable data on the number of potential individuals, as it relates to the original estimates from the States.

We have found that a significant percentage of legalized aliens appear to be dropping out of the SLIAG-funded programs, particularly educational. As they achieve residency, their need apparently is such that they turn away from those kinds of services.

I think in part you have already heard this trend confirmed by previous panels. We also note that many States are failing to recognize that there is a diminishing population and that it is having an effect on their cost projections.

One of the point that I would make is that 70 to 80 percent of the legalized aliens are, in fact, working and have proved themselves able to earn income significantly above the poverty levels; and that 30 to 50 percent have private medical insurance now. That also has had an impact.

A third point that we would like to make is that the most unpredictable factor and the one causing the widest swing in estimates is identifying individuals who receive SLIAG funded services. This has really caused a problem. States have a difficult time in determining the actual costs in these programs and must rely upon different types of indirect methods in making their estimation of participation rates and costs.

We also note that FSA and the States will probably have a relatively solid set of estimates within a year. They have been working very hard against the problem.

What this brings us to, Mr. Chairman, is that we had, in a previous report to this subcommittee, noted that there could be reductions in the appropriations of 1991 of $500,000. It looks, in fact, like that is a very conservative figure, based upon the drawdown experience to date.

I think, in fact, a strong case could be made that you would not even need an appropriation for 1991, and still there would be enough money available for the States. Evidence of that you have already heard earlier. I was interested in Mr. Helmar's testimony for the record where, on page 5, reporting for the Secretary of Health and Welfare in California, they estimated that the drawdown by the end of fiscal year 1991 would be about $2.1 billion. If that were the case, even if the Congress did not appropriate any money for that period of time, there would be already enough money appropriated to cover those costs.

I also quickly examined some of the tables that were attendant with that testimony, and noted that if you took a much more expanded estimate and you were to say that it could be as much as $2.4 billion by the end of fiscal year 1991, that would put it well within the range of what the administration's current proposals are.

So, with that, Mr. Chairman, let me reserve whatever remaining time I have for your questions.

Senator HARKIN. Thank you very much, Mr. Kusserow.

Now we will turn to Sarah Jaggar.

STATEMENT OF SARAH JAGGAR, DIRECTOR OF HUMAN RESOURCES, GENERAL ACCOUNTING OFFICE

ACCOMPANIED BY RICHARD HORTE, ASSIGNMENT MANAGER, GENERAL ACCOUNTING OFFICE

Ms. JAGGAR. Thank you, Mr. Chairman.

We are pleased to be here today to testify on SLIAG, as authorized by IRCA in 1986.

With me today is Richard Horte, who is GAO's Assignment Manager in charge of our work in this area.

I will present a summary of our statement and we request that the full statement be submitted for the record.

As you are aware, the 1991 budget request from the administration proposes to rescind about $1.1 billion of the $4 billion appropriated for SLIAG for fiscal years 1988-92. This proposal, if adopted, would leave about $2.4 billion for State reimbursement, after deducting approximately $500 million for Federal costs.

In April 1990, you asked us to report on two issues. If Congress accepts the administration's proposal to rescind $537 million of 1991 funds, and all $555 million of the 1992 funds, first, can expected state SLIAG program demands through 1991 be met; and, second, will all allowable State expenses be covered through 1994?

In addition, Senator Graham recently asked us to identify factors that prevented States from drawing down SLIAG funds and their impact; and, second, to determine whether States will use all the funds that were appropriated to them.

This testimony represents the results of that work. We visited five States which contained 84 percent of the population applying for ELA status, and 88 percent of SLIAG allocations. These States were Florida, California, Illinois, New York, and Texas.

We obtained estimated and actual SLIAG related costs by program category, looked at methods used by States to estimate costs, and identified factors that can significantly raise or lower cost estimates. Because of time constraints and the fact that States are continuously updating their cost estimates, we were unable to verify the State figures.

In general, we believe the processes followed by State officials to prepare the estimates and by HHS officials in reviewing and approving 1988 through 1990 State costs are reasonable. However, the estimates may continue to change for a number of reasons, should not be considered precise forecasts of future costs at this point.

Based on the estimates obtained during our work, it appears that State costs may exceed the $2.4 billion proposed to remain in the program for reimbursing States for the State costs. The five States estimate that they will incur costs of about $2.7 billion through 1991.

The costs through 1991 in these five States alone, therefore, could exceed the $2.4 billion funding level proposed by the administration for the duration of the program. However, as has been already discussed today, States have been slow in using available SLIAG funds and probably will not draw down more than $2.4 billion to cover expenses before the end of fiscal year 1991.

Attachment five of our statement, and also this large chart here to your right, to which I would draw your attention, illustrate the differing percentages of drawdowns of allocated fiscal year 1988-89 funds by States. As you can see, the amounts range from about 10 percent, by Florida, to about 60 percent by the State of Illinois.

States have given two primary reasons for drawdown delays. First, the regulations and guidelines for program administration were not provided to them by HHS until well after the program began, as has already been discussed this morning. Second, States encountered difficulties in developing and obtaining approval for methods to document and claim costs, and this has also been explored. As a result, some program costs are still being identified and will be claimed in later years.

The rate of drawdowns is illustrated in the second large chart, which is here on your left. This is attachment 4 in your statement. This chart shows that while drawdowns have increased in the past 5 months from about $436 million to $700 million, in order to exceed the $2.4 billion by the end of fiscal year 1991, they would have to increase at a much faster rate. Officials from the five States we visited told us they do not expect to drawdown funds exceeding the amount which would be allocated to them under the administration's proposal through fiscal year 1991.

Given the expected drawdown rate, we believe that the Congress could take action on the fiscal year 1991 budget similar to the adjustment it made last year. In the 1990 Appropriations Act, the Congress moved $555 million of 1990 funds forward to 1992, allowing these funds to be used to pay for program costs for 1990 and future years.

We believe that the 1991 budget could be reduced by $537 million, as proposed by the administration. The Congress could move the $537 million of 1991 funds to 1992 for States to use for program costs in 1991 and future years. Further, we believe that decisions about rescinding the $537 million and the $555 million should be delayed until next year's appropriations process, when better State cost data are available.

Finally, it is difficult at this time to accurately estimate funding needs for 1992–94. States have only recently begun to project costs for this period. Nevertheless, the $2.4 billion proposed by the administration for the duration of the program does not appear to be sufficient to cover future costs anticipated by the States.

PREPARED STATEMENT

This concludes my statement, Mr. Chairman. We will be happy to answer any questions you may have.

[The statement follows:]

STATEMENT OF SARAH F. JAGGAR

I am pleased to be here today to testify on State Legalization Impact Assistance Grants (SLIAG) authorized by the Immigration Reform and Control Act (IRCA) of 1986. This act, as amended, appropriated a total of $4 billion for fiscal years 1988-92 to be spent over a 7-year period through 1994. These funds can be used to help states meet the costs of services provided to aliens granted legal status by IRCA and to cover federal program and administrative costs. Federal costs are estimated to be about $500 million for the duration of the program, leaving approximately $3.5 billion for state reimbursement.

In its 1991 budget request, the administration proposes to rescind $537 million of 1991 funds and all of the $555 million of 1992 funds for a total of $1.1 billion (see att. I). This proposal, if adopted, would leave about $2.4 billion for state reimbursement.

In April 1990, you asked us if the Congress accepts the administration's proposal (1) can expected state SLIAG program demands through 1991 be met and (2) will all allowable expenses be covered through 1994. In addition, Senator Graham recently asked us to (1) identify factors that prevented states from drawing down SLIAG funds, and their impact; and (2) determine whether states will use all the funds that were appropriated. As requested, my remarks today will focus primarily on whether $2.4 billion will adequately meet expected state program demands through 1991. Also, I will briefly address the other questions that have been posed.

RESULTS IN BRIEF

The five states we visited, comprising 84 percent of the population applying for eligible legalized alien (ELA) status and 88 percent of SLIAG allocations, estimate they will incur costs of about $2.7 billion through 1991 (see att. II). Thus, costs through 1991 in these five states alone could exceed the $2.4 billion funding level proposed by the administration for the duration of the program.

However, our analysis shows that states have been slow in using available SLIAG funds and will probably not draw down more than $2.4 billion to cover expenses before the end of 1991. States gave two primary reasons for drawdown[1] delays: (1 as is common in new programs, regulations and guidelines for program administration were not provided to them until well after the program began; and (2) states encountered difficulties in developing and obtaining approval for methodologies to document and claim costs. As a result, some prior year program costs are still being identified and will be claimed in later years.

Given the expected drawdown activity, the Congress could take action on the 1991 budget similar to the adjustment it made last year. In the 1990 Appropriations Act, the Congress moved $555 million of 1990 funds forward to 1992, allowing these funds to be used to pay for program costs for 1990 and future years. We believe that the 1991 budget could be reduced by $537 million as proposed by the administration. The Congress could take the same action it took last year. It could move forward the $537 million of 1991 funds to 1992 for states to use for program costs in 1991 and future years. Further, the $555 million already appropriated for 1992 should not be rescinded at this time. Decisions about rescinding the $537 million and the $555 million should be made during next year's appropriation process, when we expect better state cost data to be available.

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[1] Drawdowns occur after a grant award has been made and the recipient requests the transfer of funds to a state account for its immediate cash program needs.

Before discussing the specific results of our work, I would like to provide a brief overview of the SLIAG program.

BACKGROUND

In 1986, the Congress passed IRCA (P.L. 99-603), instituting a major reform of our national immigration policy. The purposes of this legislation are to (1) reduce illegal immigration, (2) allow aliens who meet certain conditions to apply for lawful residency in the United States, and (3) reimburse state and local costs--up to the federal appropriations--for health, education, and public assistance services provided to ELAs. States can be reimbursed for allowable services for 5 years from the date aliens applied for residency.

SLIAG funds help support services for ELAs in three major categories:

-- Public assistance - provides cash, treatment services, or other assistance to meet the basic subsistence or health needs of individuals.

-- Public health assistance - provides preventive services, such as immunizations and testing for tuberculosis and sexually transmitted diseases, that protect the health of the general population.

-- Educational assistance - provides elementary, secondary, and adult educational services, including English language and civics instruction, to help eligible aliens function in society.

SLIAG funds available for state reimbursement may also be used to cover program administration, conduct outreach activities, and help prevent employer discrimination against ELAs.

The target population eligible for benefits and services includes aliens who entered the United States prior to 1982 (pre-82s). It also includes special agricultural workers (SAWs) and replenishment agricultural workers, commonly referred to as migrant or seasonal farm workers.

To be eligible for services, aliens were required to apply to the Immigration and Naturalization Service (INS) for residency. About 3 million aliens applied for residency (see att. III). Of this total, about 1.6 million pre-82s and 607,000 SAWs have been granted residency and nearly 55,000 pre-82 and 620,000 SAW applications are pending final action by INS. INS rejected the other applications.

The Department of Health and Human Services' (HHS's) Division of State Legalization Assistance reviews state SLIAG applications, interprets program regulations, develops policy guidance, and allocates grant funds among the states. It allocates funds based on the number of ELAs residing in each state and on the estimated costs for providing services.

SCOPE OF OUR WORK

We conducted work in California, Florida, Illinois, New York, and Texas to (1) obtain estimated and actual SLIAG-related costs by program category, (2) determine methodologies used by states to estimate costs, and (3) identify other factors that could significantly raise or lower cost estimates. Because of time constraints and the fact that the states were continuously updating their cost estimates, we were unable to verify the state figures. However, we reviewed the bases state officials used to prepare these estimates and HHS officials' rationale for reviewing and approving 1988 through 1990 state costs. The processes followed by state and HHS officials appear to be reasonable.

We have some concerns about state cost projections, but we do not believe they have a material impact on our conclusions. State estimates are based on (1) data derived from cost systems that are evolving, (2) limited empirical data, and (3) assumptions concerning utilization rates and INS adjudication decisions. As a result, these estimates may change and should not be considered precise forecasts of future costs.

ADEQUACY OF PROPOSED FUNDING THROUGH 1991

As mentioned earlier, the administration proposes to rescind about $1.1 billion of the $3.5 billion appropriation available to states to help defray their costs. As a result, about $2.4 billion would be available to reimburse states for SLIAG costs through 1991. Based on estimates obtained from the five states in our review, it appears that costs may exceed this amount (see att. II). However, it should be sufficient to cover anticipated drawdowns for all states through 1991. Drawdowns, which are the final step in the process of transferring federal grant funds to the states, typically lag behind expenditures. While drawdowns have increased in the past 5 months from about $436 million to $700 million (see att. IV), they would have to increase at a much faster rate to exceed $2.4 billion by the end of 1991. Officials from the five states we visited told us they do not expect to draw down funds exceeding the amount which would be allocated to them under the administration's proposal through 1991.

Two factors help explain why states have drawn down only about a third of their 1988 and 1989 allocations to date (see att. V). First, HHS did not issue final regulations until March 1988 and guidelines for claiming costs until October 1988. States believe that many 1988 costs will never be documented because systems were not in place to gather much of the data needed to make claims. They plan to use any funds remaining from their 1988 allocations to pay for expenses expected later in the program.

Second, states are experiencing difficulties in developing methodologies to identify ELA participation in state and local programs and associated costs. In June 1989, HHS implemented a computer matching system that uses either Social Security numbers or alien registration numbers to document costs associated with serving ELAs. HHS is working with the states to develop other acceptable methodologies, such as statistical sampling, for use in claiming costs. As a result, states are still identifying allowable costs that were incurred in 1988 and 1989.

FACTORS THAT COULD AFFECT STATE COST ESTIMATES

The actual costs incurred by the five states through 1991 could be different than estimated. Several factors could cause the estimates to increase or decrease. For example:

-- The Immigration Nursing Relief Act of 1989 (P.L. 101-238) authorizes states to use SLIAG funds to conduct outreach efforts to inform the ELA population about health, education, and social services they are entitled to receive and the importance of identifying themselves as ELAs to enable states to seek reimbursement. It is difficult to determine whether these efforts will increase the number of ELAs seeking services.

-- INS had not adjudicated about 620,000 SAW applications as of May 1990. These applicants must provide proof of agricultural employment. Providing such proof has been difficult for many SAWs. Depending on the decisions rendered and assumptions used by the states in making their estimates, actual costs could increase or decrease.

- About 35 court cases have been filed by social service agencies on behalf of approximately 75,000 to 100,000 aliens seeking ELA status. These aliens contend that they were unjustly denied lawful status for a variety of reasons and are seeking a remedy through court action. If these aliens obtain ELA status, states could obtain reimbursement under SLIAG for services provided to them.
- Congressman Bruce A. Morrison introduced legislation (H.R. 4300) that would extend eligibility for medical care to as many as 1.5 million dependents of ELAs. Allowable medical costs will increase if this bill becomes law.
- Under IRCA, to obtain permanent residence status, pre-82 ELAs must (1) demonstrate a basic understanding of English and civics or (2) show evidence they are making satisfactory progress towards attaining such an understanding by attending class. Although there is no similar requirement for SAWs to obtain permanent residency status, states estimate that some of them are taking English and civics classes and that many in both groups will enroll in additional educational classes. States included the costs of these classes in their estimates. The states are encouraging continuing education through outreach programs and other means. If ELAs do not enroll in classes as projected, costs will be lower than estimated.

ADEQUACY OF FUNDING FOR 1992-94

States believe that their costs will eventually exceed the total SLIAG funds appropriated. However, it is difficult at this time to accurately estimate funding needs for 1992-94. States have only recently begun to project costs for this period. Nevertheless, the $2.4 billion proposed by the administration for the duration of the program does not appear to be sufficient to cover costs anticipated by the states. We expect better state cost data to be available by next year. Therefore, we believe any decision to rescind the $537 million of 1991 funds and the $555 million of 1992 funds should be delayed until next year's appropriation process.

Mr. Chairman, this concludes my statement. I will be happy to answer any questions that you may have. Thank you.

SUMMARY

The Congress appropriated $4 billion to be spent over a 7-year period to assist states in meeting the costs of services provided to aliens granted legal status under the Immigration Reform and Control Act of 1986. Federal program and administrative costs are estimated to be about $500 million, leaving approximately $3.5 billion for state reimbursement. The administration proposes to reduce this amount by $1.1 billion, which will leave about $2.4 billion to reimburse states.

Almost 90 percent of the federal funding will go to five states, with California receiving the largest share. Based on estimates obtained from these five states, it appears that costs may exceed $2.4 billion. However, that amount should be sufficient to cover anticipated drawdowns for all states through 1991. Drawdowns, which are the final step in the process of transferring funds to the states, typically lag behind expenditures. While drawdowns have increased in the past 5 months from about $436 million to $700 million, they would have to increase at a much faster rate to exceed $2.4 billion by the end of 1991. Officials from the five states GAO visited said they do not expect to draw down funds by the end of 1991 exceeding the amount which would be allocated to them under the administration's proposal.

GAO believes that given the expected level of drawdown activity, the Congress could take action on the 1991 budget similar to that taken last year. That is, it could move $537 million of spending authority to 1992. In the 1990 Appropriations Act, the Congress moved $555 million of 1990 funds to 1992, and allowed states to use those funds to pay for costs incurred in 1990 and future years.

GAO believes that decisions about rescinding the $537 million and the $555 million should be delayed until next year's appropriation process, when better state cost data are available.

ATTACHMENT I

SLIAG APPROPRIATIONS AND ADMINISTRATION
PROPOSALS--FISCAL YEARS 1988-92
(Dollars in thousands)

	1988	1989	1990	1991	1992	Total
Original appropriations	$1,000,000	$1,000,000	$1,000,000	$1,000,000		$4,000,000
Shift in funds			<555,244>[a]		$555,244[a]	0
Proposed reductions in funds				<537,403>[b]	<555,244>[b]	<1,092,647>
Sequester			<12,180>			<12,180>
Available	1,000,000	1,000,000	432,576	462,597	0	2,895,173
Federal costs	<71,500>	<101,500>	<131,479>[c]	<161,500>[c]	0	<465,979>
Total grants to states	$ 928,500	$ 898,500	$ 301,097	$ 301,097	$ 0	$2,429,194

Source: HHS's Division of State Legalization Assistance, and 1990 and 1991 budget requests.

[a] The 1990 Labor, HHS, and Education Appropriations Act reduced the 1990 appropriation by $555,244,000 and appropriated this amount for 1992.

[b] The administration's 1991 budget proposes to rescind this amount.

[c] HHS estimate based on fourth quarter 1989 allocations.

ATTACHMENT II

PROJECTED STATE SLIAG COST ESTIMATES AND
ALLOCATIONS--FISCAL YEARS 1988-91
(Dollars in millions)

State	Estimated costs					GAO projected allocations[a]
	1988	1989	1990	1991	Total	
California	$152	$503	$689	$680	$2,024	$1,453
Florida	7	18	22	19	66	189
Illinois	6	22	33	34	95	102
New York	64	78	82	78	302	119
Texas	21	67	87	82	257	274
Subtotal	250	688	913	893	2,744	2,137
Remaining States[b]	34	94	125	122	374[c]	291
Total	$284	$782	$1,038	$1,015	$3,118[c]	$2,428[d]

Source: Projected costs provided by state officials.

[a] Allocations are GAO's projections based on the administration's proposed funding and each states' share of total grant funds they received in 1988 and 1989.

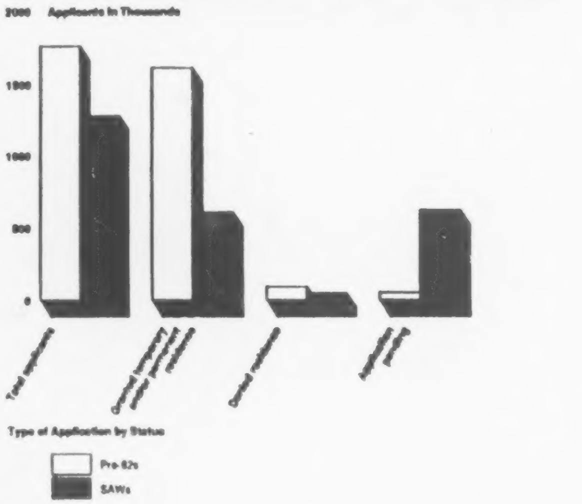
[b] These projected costs and allocations are for the remaining participating 35 states, the District of Columbia, and Puerto Rico. They are based on their share of 1988 and 1989 allocations.

[c] Totals do not add due to rounding.

[d] Total does not equal administration's proposed funding level due to rounding.

ATTACHMENT III

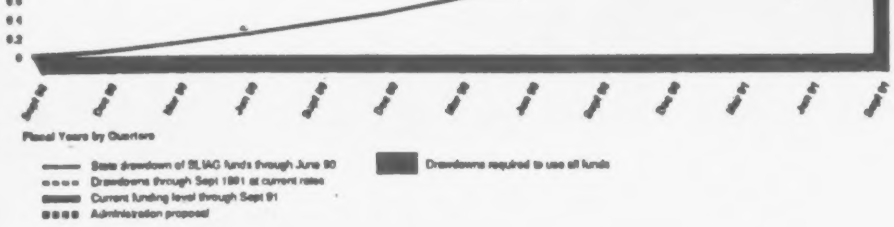
LEGALIZATION APPLICANTS BY TYPE OF APPLICATION AND STATUS (MAY 1990)



Source: Legalization Application Processing System, Immigration and Naturalization Service.

ATTACHMENT IV

STATE DRAWDOWNS OF SLIAG FUNDS AND GRANT FUNDING LEVELS

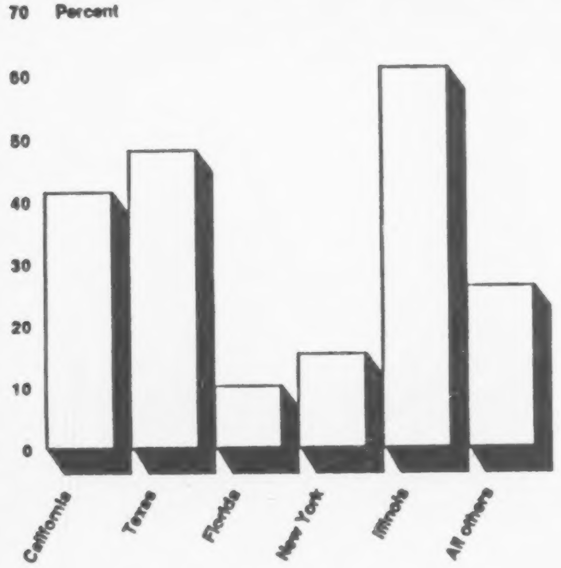


Note: We estimated drawdowns for the quarter ending June 1990 using the monthly drawdown rates during the preceding 5 months.

Source: HHS's Division of State Legalization Assistance.

ATTACHMENT V

PERCENTAGE OF 1988-89
ALLOTMENT DRAWDOWNS (MAY 1990)



Source: HHS's Division of State Legalization Assistance.

DRAWDOWNS

Mr. KUSSEROW. Mr. Chairman, I should note that I have brought one chart, but I didn't highlight it after I saw what GAO brought. Theirs are so much bigger and prettier that I didn't feel I should highlight it.

Senator HARKIN. I will defer to Senator Graham again to start the questioning. But before I do, may I get this chart over here [indicating] explained to me again?

Ms. JAGGAR. Yes, sir.

You do have it in your statement in a smaller form, if that will help you follow it.

Senator HARKIN. Yes; I have that.

Ms. JAGGAR. What you see with the bottom, dark line, is current State drawdowns through June 1990. After June 1990, you see the shaded area beginning.

If you follow the dashed line on the bottom of that shaded area, you would see that if the drawdowns continue beyond June 1990 at the current rate, they would reach approximately $1.51 billion by the end of September 1991.

If the drawdown rate increases such that the full $2.4 billion of allocated money is expended, then the top part of that shaded area illustrates the extent to which that drawdown rate would have to increase.

Senator HARKIN. From June 1990 to September 1991?

Ms. JAGGAR. Yes, sir.

The top line on the chart illustrates the current funding level through September 1991. The smaller dashes show what the administration's proposal looks like in terms of funding levels.

I hope that is clear.

Senator HARKIN. To get to $2.4 billion?

Ms. JAGGAR. Yes, again, to get to the $2.4 billion.

Senator HARKIN. All right. I think I understand that now. Thank you very much.

Senator Graham.

Senator GRAHAM. Let me ask a couple of questions further about that chart.

First, what is your definition of "drawdown?"

Ms. JAGGAR. The drawdown figures that we are using are the figures that have been reported by the States to this point to HHS. Those are actual costs incurred and drawn down.

Senator GRAHAM. When you use the term "drawn down," does that mean that there has been an actual transfer from the Federal Government to the applying State or local for reimbursements of costs previously incurred?

Ms. JAGGAR. Yes, sir.

Senator GRAHAM. The testimony from the Los Angeles representative was that there is some $131 million of costs that had been applied for but which have not, as of this date, been paid.

Would a figure like that $131 million be included in your drawdown number?

Mr. Kusserow.

Ms. JAGGAR. No, sir; it would not.

Mr. KUSSEROW. If I may, Senator Graham, since for all practical purposes it looks like we could almost change places here because we are so remarkably close, let me just say that what we did in our study was that we contacted the States and looked at what was coming down the pipeline, as well as the money that has already been drawn down.

We also looked at the State projections, the State estimates, and carried that forward in our estimates, which brings us well within the margin of safety. It brings us in about $2.1 billion using that.

So we are not just using what the drawdowns have been to date, but, in addition, what is in the pipeline and what the States are projecting to put into the pipeline into the future.

Senator GRAHAM. A second question is this. Your chart ends with September 1991, and the top line I guess is at the $3 billion level.

The 1986 act called for a total Federal expenditure of $4 billion, of which there would be a Federal offset, which chart 1, or the materials of the gentleman from California, indicated that $3.534 billion would be the allocation to the State, and so the difference of approximately $466 million would have been the Federal offset.

How did you arrive at the $3 billion of allocation to the State, the $3 billion?

Ms. JAGGAR. It's because we removed also the $555 million, which has been shifted to 1992.

Senator GRAHAM. So you would come to the same number of total State allocations as the California chart No. 1, if you had added another year to your chart?

Ms. JAGGAR. That's right.

Senator GRAHAM. To me there are two questions here. One is there a total commitment and the other one is there an immediate cash flow question.

The current projections are that over the period from 1988 to 1994, the Federal Government would allocate to the States for SLIAG costs approximately $3.534 billion. Is it your estimate that the States will incur costs equal or greater than that number?

Mr. KUSSEROW. I believe that probably—it's strange in that we have not consulted here but I think we are probably going to come up with the same answer because I want to underscore something that was just recommended by GAO, which is this—it is very difficult to know for certain because of the fact that the data thus far has been so mushy.

What we do know is that decisions can be made now about fiscal year 1991 without dealing with the bottom line of what Congress originally intended, and that Congress would still have an opportunity, as the harder data comes on board, to do a much more critical analysis as to what the actual needs will be. So far, we are still—and I think at this point, I don't know about you, Senator, but I am beginning to have my mind swirl a little bit on all of the things that we have heard—but the fact of the matter is nobody really has the right crystal ball to project too far into the future because the basis on which they are doing it is not firm.

Where we do have the promise is, as we have looked at what is going on in the States and at the Family Support Administration, we believe that, within 1 year, you will, in fact, have the kind of data and the kind of answers that you have been seeking here today and have been trouble getting the right answers for. I think you will have those.

So I think decisions can be made without affecting the future of the program. You can defer that, depending upon what the actual needs are going to be, and you will have that data within 1 year.

Ms. JAGGAR. I have nothing more to add to that.

Senator GRAHAM. So, then, may I interpret that as saying that you would not recommend the rescission of the difference between the original amount and $2.4 billion, which the administration has recommended?

Mr. KUSSEROW. We were not asked to really do that for you. We were asked not really to make the policy judgment as to what the outyear needs are going to be.

What you really asked us to do was to try to understand what the current needs are and what the needs are coming through the coming year. So it is very difficult for me to say.

The evidence that we have seen—and, again, I qualify that as saying that the evidence is shaky—but the evidence that we have seen is that some of the original assumptions on which the $4 billion was based are not materializing; that it is softer; that, in fact, we are finding that these people are finding a way to regularize themselves into our society a lot quicker than what we originally anticipated.

For example, in the State of California, last year they published a report which shows that 70 percent of these persons already found themselves into the workplace and that their average income was in the $20,000-some range. I think that is remarkable and a wonderful American story.

But it also means that their needs to depend upon the system, aren't quite exactly what people had originally thought they would be.

Before you can make that kind of definitive judgment in the final analysis, as to what that means to the bottom line, you would be guessing until you have harder data.

Senator **Graham**. Well, it would be inconsistent with your recommendation, then, that we defer this judgment until we have that harder data to make a preemptory decision to rescind $1.6 billion of the authority at this time, would it not?

Mr. **Kusserow**. Well, I don't think that either GAO or the Office of the Inspector General had talked about rescinding any money or taking any money away from the original intent. What we had talked about is the cash flow situation.

I think I am correct that we both feel that you can defer a final decision on that point without damage downstream somewhere. I think what we are both recommending is that the President's recommendation for 1991 could be carried out without damaging the program because you are not putting the program at risk of not meeting our obligations on the drawdowns of the State; and that 1 year from now, you can easily, more easily, make that final determination as to how much you might want to full-fund it, or whether you feel that the need hasn't materialized.

Senator **Graham**. Well, I understood that the President's proposal had two parts. One part was rescission down to a total of $2.4 billion by the reduction for fiscal year 1991 and a termination of the fiscal year 1992 funding level.

Mr. **Kusserow**. I don't think either one of us speaks for the administration.

Senator **Graham**. Without putting words in your mouth, I believe that the adoption of that position, if I have correctly stated the administration's position, would be inconsistent with what you have both recommended: that is, that we get further data before we make a judgment as to what the actual costs are going to be.

Mr. **Kusserow**. I think it would be fair to say that you could make almost any decision along that line today, whether you want to just defer a certain amount for the coming year or whether you want to rescind it, and still not damage the program because you would still have time before the program would come to an end to make a final determination.

So I think you are in a situation where you have a year's grace, in terms of what you do, without doing permanent damage. The final line decision can be made when you have firmer evidence.

Ms. **Jaggar**. I think in GAO we would go just a step further and say we would recommend at this point against rescinding. Political exigencies being what they are, it may be difficult to recapture money once rescinded. There is not the basis for making that final decision about rescission at this point.

So we would recommend that the decision be deferred until next year.

Senator **Graham**. The second aspect of the administration's request is the deferral for fiscal year 1991. The California chart indicated that if that were to be approved, there would be a net cash unfunded State cost for fiscal year 1991 of $36 million, increasing to $862 million in fiscal year 1991. This would be a combination of both the reductions in 1991 and the rescission in 1992.

If you have had an opportunity to review that chart, do you have any comments on your level of confidence in its accuracy?

Mr. **Kusserow**. Well, I only glanced at it back there, but if I read it correctly, it is a combination of the 2 years, would affect both fiscal year 1991-92. I don't think that, from what we have seen in reviewing the State of California, if you made the decision to defer the roughly $500,000 recommended by the administration, that California would be put at any risk in 1991.

As to what happens after that, we are, once again, back into a highly speculative arena, where we really don't know because we don't know how firm the evidence is. We don't really know how solid that is. We are projecting, again, by speculation rather than by hard evidence.

But I would submit that, when you come around to the 1992 decisionmaking, I think you will have the kind of information that you really need in order to make those kinds of hard decisions.

So I don't think you risk anything at this point.

Mr. **Grob**. If I could just elaborate a bit, I would simply like to mention that we looked at the estimates that were prepared by all of the States, just as GAO did, and we looked at estimates of FSA, and we, ourselves, have made estimates, as I am sure everyone has. I am sure I could speak for everyone in saying, as we have in our testimony, that all of these estimates are extremely soft. They cover a very wide range.

I think the difference between the California estimate and the administration's proposal is just approximately $30 million or so.

In the estimating that is done here, $30 million is almost just like noise at the edge of this thing. It is just not something that one could determine. I simply couldn't say that any estimate that has been performed by anyone could possibly be known to be correct within $30 million.

Ms. **Jaggar**. Finally, if I might add one more point to this discussion, Mr. Helmar's chart assumes that if the $537 million were deferred, it would be deferred until fiscal year 1993.

Our suggestion is that a deferral be made to fiscal year 1992. Again, with the more concrete information about costs, the kind of up and down problem that he is concerned about may be able to be dealt with by Congress next year, should it decide to do that, and avoid the ping-pong effect, perhaps, that he is concerned about.

Senator **Graham**. Mr. Chairman, this is going to be my last question, and I want to preface it by saying how much I appreciate your holding this hearing and affording me the opportunity to participate.

Senator **Harkin**. Certainly.

Senator **Graham**. The question that I have that is difficult to reconcile is the original projection was that of the total $4 billion, approximately 88 percent of it would have been spent through the State level. That is $3.534 billion out of $4 billion.

In the administration's current proposal, approximately over one-third, $160 million out of $461 million, would be spent at the Federal level, and the balance, something less than two-thirds, at the State level.

How do you account for the escalation in the portion of spending which is at the Federal level at the same time that the same population is putting such a reduced demand at the State and local level?

Mr. GROB. Part of this, I believe, Senator Graham, is a technical problem that occurred in the early development of the law.

I was in a different agency in HHS at the time of that, and I think your knowledge of what went on behind the scenes is much more detailed than mine. But I was aware at that time of what was happening.

Part of this was that the first year of estimates for the Federal portion were an extremely rough estimate of what the Federal costs would be and were actually prescribed in the law to be equal to the number that was stated in the law. I believe that for fiscal year 1988, that estimate was around $80 million. I am forgetting the exact amount, but it was in the vicinity of $80 million.

The law specified that that would, indeed, be the estimate for 1988, and it then specified that any difference in the costs that were incurred would be made up out of appropriations from the future fiscal years; and that that same process would continue; that any shortfalls would be made up from the next fiscal years.

So it expressed a great deal of uncertainty at that time as to what the Federal expenditures would be.

So I don't know that there was a policy that a certain amount or percentage would be allocated to the Federal Government. The policy was that the Federal funds would be paid first and the remainder would be available to the States to mitigate their expenses.

So some of the rise in the Federal expenditures is just due to the quirk of the real estimate catching up with the prescribed estimate.

There are probably other factors as well; but I think that one is worth nothing.

Senator GRAHAM. There just seems to be an anomaly that if the program was originally intended that roughly 12 percent of the costs would be at the Federal level and 88 percent at the State, that we have now reached the point that we are approaching 35 percent of the costs at the Federal level, 65 percent at the State. This either says there has been a dramatic shift in where we think the incidence of these costs are occurring or that the Federal share has been much greater than had been anticipated and the State share much less. Or I might conclude that maybe one thing that the Federal Government is trying to be sure is that all of its costs are paid and it is shorting the States in reimbursement for their costs. But that would be a cynical statement. [Laughter.]

Mr. GROB. Senator, I think the law, in essence, States that the Federal costs will be paid and out of that the remainder will be available to the States. I believe that is the way the law is structured.

If you are trying to understand the anomaly that has occurred in the ratio of those, I would repeat two things. One is that the history of this program to date has been that all of the estimates, whatever anyone thought at any given time, have turned out not to be true the next time they asked the question. The estimates have been extremely volatile.

The greatest anomaly in my mind, and the program has simply been that the drawdowns to date have been so much smaller than anyone had anticipated they would be. So I think that will be corrected when another year of experience has been accomplished in the States using the cost documentation system and of working with FSA to come to an agreement for sampling techniques as to how many of the people are being served in the State and how much they deserve to be reimbursed for the costs they have experienced.

I think at that point a lot of these anomalies will disappear.

Senator **GRAHAM**. Thank you.

Thank you, Mr. Chairman.

Senator **HARKIN**. Senator Graham, thank you very much. I have covered all of the questions I wanted to ask.

It appears to me, from my own standpoint, that we are looking at the possibility of a deferral, as long as we can be sure that the States have the necessary resources to meet the needs of the next fiscal year.

Senator Graham has certainly been a thorough watchdog on this program and I compliment him for that. Obviously it affects his State a great deal, and I might also add, too, Senator Wilson and Senator Cranston from California.

I know that it affects those States a great deal and I believe that the Federal Government should live up to the commitment it has made. But there are a lot of other commitments that we have to other programs that needed to be funded last year. As I stated on the floor and as I believe the record will show, in no way did I want to remove the obligation that we had, but only to use our moneys wisely and well during this period of time to meet our obligations in other areas.

So perhaps the suggestion that has been made here by this last panel, as to taking a look at it next year when we are going to have more data and we are going to have a better look at exactly what the drawdown situation is, would be the time to make any decisions regarding rescissions—at that time; but that we may have enough information and I think we do have enough information for the next fiscal year in regard to how much funds would be required, at least through the next fiscal year.

So I want publicly to thank Senator Graham for his oversight of this and for keeping good track of it, for his asking for this hearing. I believe we got good information out of it.

I think I have become more aware, as all of us have, of the different impacts of this program, the parameters, why the drawdown has been so slow in some of the areas, some of the new requirements out there. Certainly I still have some questions that need to be answered, but they cannot be answered now. But they will be answered next year, I think. We will have more data next year to look at some of those questions.

Mr. KUSSEROW. Mr. Chairman, if you would find it useful, we would be pleased to report back to you next year and review the program in light of the new evidence and in light of the new reporting systems.

Senator HARKIN. Well, I probably would have made that formal request to you at some point I suppose, Mr. Kusserow.

Mr. KUSSEROW. At least I volunteer this way. [Laughter.]

Senator HARKIN. Yes; that's pretty nice of you. I am sure we will be asking you to do that at some point. In fact, why don't you just take it for a given that that will happen, and anything you have to set in motion or set up to do that, we would appreciate your doing.

Again, I want to thank all of our witnesses, especially those who have traveled a long distance to be here. Your expertise in this complex subject was very much evident today. Your contributions are very much appreciated.

Again, thank you, Senator Graham.

I ask that the hearing record be kept open, and that any additional statements be printed in the record at this point.

CONCLUSION OF HEARING

The subcommittee will recess, subject to the call of the Chair.

[Whereupon, at 12:45 p.m., Wednesday, June 27, the hearing was concluded and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

Material Submitted Subsequent to Conclusion of Hearing

[CLERK'S NOTE.—Additional material was received by the subcommittee subsequent to conclusion of the hearing. The statements will be inserted in the record at this point.]

STATEMENT OF NANCY KELLEY WITTENBERG

INTRODUCTION

The Florida Department of Health and Rehabilitative Services is the single state agency in Florida responsible for the application and distribution of State Legalization Impact Assistance Grant (SLIAG) funds in Florida.

The department has been challenged by problems among service providers and state agencies in implementing SLIAG in Florida since the inception of the program. Among the issues compounding the problems has been the notion that state and local governments will not require the full amount appropriated to reimburse costs of providing public assistance, public health and education services to the formerly undocumented aliens.

We acknowledge that our state is not alone in dealing with these problems and that they in fact extend well beyond Florida's borders to all state's attempting to comply with the SLIAG program.

This testimony will address itself to SLIAG program issues as they impact on Florida.

BACKGROUND

The Population in Question and Legalization Requirements

The Immigration Reform and Control Act of 1986 (IRCA) provided for the legalization of undocumented aliens through two distinct programs. The two programs were for two separate types of undocumented alien populations. In Florida, the total number of applicants for both programs came to 161,589 (HHS, March 29, 1990). Nationally the passage of IRCA resulted in nearly 3 million legalization applicants.

Pre-82s

The first program covered undocumented aliens who could establish continuous residence in the U.S. prior to January 1, 1982 and met other criteria for admissibility as immigrants. These individuals are referred to as Pre-82s or section 245A applicants (the IRCA section enabling their application). They were able to apply to adjust their status to lawful temporary residence within a year of May 5, 1987. Originally they were to have the opportunity to adjust from temporary residence status to lawful permanent status during the 12 months following completion of 18 months of temporary residence. This was based on the premise that the Immigration and Naturalization Service (INS) would adjudicate all applicants in a timely and uniform manner, thus guaranteeing the integrity of all approval dates and simultaneously meeting the requirements of the law and regulations.

Unfortunately, this was not the case, instead the process was fraught with problems in processing applications, resulting in delays in adjudication of applicants, irregular approval issuance dates noted on the applicants' INS documentation and a lack of communication with the population in question. Consequently, the INS found itself in the position of having to issue additional regulations. These regulations extended the period during which the applicant could apply for permanent residency to the entire thirty months of a legalized alien's temporary residency status beginning at the time the status was granted and not when he/she applied for legalization. When the Pre-82s apply for permanent residency they must prove English language and U.S. Civics competency comparable to the current naturalization requirements. The regulations governing this requirement were not issued in their final form until nearly two years after the passage of the IRCA.

At the end of the initial application period, May 4, 1988, 49,440 individuals, 30% of the state's total IRCA population, applied for the first phase of legalization. As of March 1990, 45,357 or 91.7% have been approved as temporary resident aliens.

SAWs

The second program was for Special Agricultural Workers, sometimes referred to as seasonal agricultural workers or SAWs. It permitted illegal alien workers who had done at least 90 man-days of qualifying agricultural work between May 1, 1985 and May 1, 1986 to apply for temporary legal status. The application period for SAWs or section 210 applicants (the IRCA section enabling their application) began on June 1, 1987 and ended November 30, 1988.

SAWs have a shorter period of residency required than do Pre-82s and have no language or civics competency requirement to meet to qualify for permanent residency. Rather, permanent residency status was to be automatically granted to those applying on either December 1, 1989 (for Group I SAWs) or will be granted on December 1, 1990 (for Group II SAWs) given that the applicant, as with all IRCA applicants, has not been disqualified because of fraud, public charge or criminal activity. The criteria used to determine whether a SAW is granted permanent residency status in 1989 or 1990 is dependent on the number of years the person worked in agricultural employment before applying under section 210 of IRCA. A Group I SAW must have had to have worked for 90 man-days during three consecutive years ending with May 1, 1986, while a Group II SAW would have had to have worked for 90 days in the year ending on May 1, 1986.

In Florida, a total of 112,149 SAW applicants, 70% of the state's IRCA population, apply for legalization by November 30, 1988. As of March, 1990, the number of approved temporary resident alien SAWs equaled 66,833 or 59.5%. To date, 250 of these individuals have applied for permanent residency as Group I SAWs.
For IRCA purposes, "adjudication" is to hear and settle a case (approve or deny an alien's status adjustment request) by the

INS. The approval level of adjudication is directly related to service costs that can be claimed. Except in the area of public health where costs may be claimed back to the date of application, costs may be claimed only on aliens who have been adjudicated to the status of temporary resident alien or permanent resident alien. The approval adjudication rates noted for both Pre-82s and SAWs use the March 1990 total even though in each case they are different from those given in November by HHS. These figures have been employed because they are higher than those published by the INS in November 1989. An eligible legalized alien or ELA is an alien who has applied for legalization and has at a minimum been granted temporary resident alien status. Consequently, unless otherwise noted, the term ELA is used to reference both Pre-82s and SAWs who have been granted temporary resident alien status.

SLIAG Reimbursable Services

In an effort to address concerns that ELA applicants would abandon employment in favor of public welfare subsistence, the IRCA barred these applicants from many federal benefit programs. As a result, state and local governments became concerned that the exclusion of federal benefit assistance to this generally poverty level population would result in increased dependence on state and local government aid programs for assistance. Congress therefore, established the State Legalization Impact Assistance Grants (SLIAG) to provide funds enabling the states and localities to receive reimbursement for social service--public assistance and public health assistance--and education expenditures related to serving this population. This provision of IRCA anticipated the law's potentially adverse effects on state and local governments.

ALLOCATIONS, APPLICATIONS AND ASSUMPTIONS

Under SLIAG, $1 billion, minus an amount termed "the federal offset", is to be appropriated to the states each year for four consecutive years, FFY 1988-FFY 1991. The appropriations for each of these FY's may rollover and be expended through 1994. Any unexpended funds at the end of this time revert to the federal government. The front loaded funding would enable state and local governments defray the unanticipated costs of service to this population throughout the life of the program.

o FFY 1988 Florida, was allocated $73.3 million, and
o FFY 1989, Florida was allocated $69.6 million.

These allocations ranked Florida third among the forty-two states allocated SLIAG funds, behind California and Texas.

These allocations were based on state and local government specific projections of the costs of allowable services to the estimated population totals. It is important to remember that these projections were made on the basis of certain assumptions later invalidated when federal regulations were ultimately finalized. These assumptions centered on such issues as:

1) the definition of an ELA,
defining an ELA as one who has been approved and not one who applied, is pending, and or their children (in other immigration related assistance programs, children of entrants are classified as entrants even though they have been born in the U.S.);

2) the type of services allowed as SLIAG-related costs, which in K-12 education, costs for were allowed only for those who met the 3% or of the district population or 500 student SLIAG regulatory threshold;

3) the definition of public health versus public assistance services, which were functions defined at the state and local levels as public health services but were classified

by SLIAG as public assistance, thus requiring collection of individual information for cost documentation purposes, rather than the ability to use population ratio;

4) the reimbursement nature of the program, which allowed only those costs incurred and paid out to be reimbursed, with no exceptions.

5) the allowable level of administrative infrastructure, which ignored the true level of administrative infrastructure needed to manage the various program aspects exceeds the allowable existing mechanisms;

If even a few of these initial assumptions had held or those related to INS adjudication schedules, the cost of services would have met, if not exceeded, the state's estimations. The issue of INS adjudication is important because the delays have resulted in aliens accessing services with applicant status and consequently in either delaying or negating the service provider's ability to be reimbursed for services provided.

CURRENT STATUS

For Florida, as well as many other SLIAG-funded states, expenditures during FFY 1988 were extremely modest in comparison to the amount of SLIAG funds available. In the federally approved FY 1988 and FY 1989 SLIAG applications, the State of Florida following the prescribed federal guideposts, estimated costs for the formerly undocumented aliens at $73.3 million and $69.6 million, respectively. To date, the over 80 approved state and local government programs have been able to document only $6.68 million and $17.94 million, respectively and few FY 1990 costs have been claimed thus far. This phenomenon has been more the result of several developments beyond the control of the states, than true expenditure outlays. Some of these developments include:

- delays in start-up at the federal level;
- confidentiality restrictions set by the IRCA, placing the states in the disadvantageous and, in some cases, impossible position of having to scramble after the fact to identify persons who have previously accessed services;
- inherent difficulties involved in identifying the amount and cost of public assistance and public health services provided to newly legalized persons who are reluctant to identify themselves as such to service providers;
- development and refinement of methods to identify SLIAG ELAs, service utilization and costs, both retroactively and for current and future federal fiscal years is an ongoing and difficult process given both the INS confidentiality restrictions and rigid interpretations rendered by HHS regarding acceptable methods of documentation.
- the reimbursement nature of the program which disguises the very time-consuming process of documentation, verfication and transference of costs all of which lag far behind the actual expenditure time period.

Florida has adhered to both the letter and the spirit of the law. The state has only contracted with county governments and the Department of Education: entities already providing the allowable services. It has reimbursed only those costs that have met the detailed HRS and state comptroller required invoice clearance process and the rigorous ELA documentation requirements set by HHS. Costs have also been understated because of the need to use alternate cost documentation methods, such as the Cost Documentation System (CDS), Population Ratio Method and Approval/Denial Rate Method. In those instances where providers are able to connect actual costs to properly documented ELAs, these alternate methods are not necessary and therefore actual cost documentation generates the optimum reimbursement to the provider. On the other hand, the alternate methods allow a provider to attempt to claim the cost of services to individuals for whom they have incomplete (according to HHS interpretations) INS documentation of status, (i.e., no photocopy of their INS card) and/or to individuals the provider cannot track through the status adjustment process. These methods reduce the allowable level of costs that can be claimed. Florida has had to rely on these methods to recoup state and local costs expended.

Furthermore, the state has advanced no funds to programs, either in the form of cash advances or grants. This and the use of alternative cost documentation systems are important factors when considering why the state's current expenditure levels are where they are today. The Governor and Legislature were assured that every effort would be made to guarantee that the state would not be found with disallowed costs, thus requiring pay back from general revenue funds. The SLIAG program has attempted to parallel the fiscal conservatism adhered to by the state as a whole. The state has maintained open channels of communication between the counties, HRS program offices and other state agencies in an effort to accentuate the availability of SLIAG funds for reimbursement of costs they may incur in serving the identified population. The state has provided on-site technical assistance, facilitated regional and statewide SLIAG specific meetings and conferences with district, regional and federal INS and HHS officials. Additionally, the state has conducted statewide conferences specifically tailored to generating county commissioner, hospital administrator and educator awareness of and interest in SLIAG. As a result of these efforts, several previously non-contract counties have expressed interest in entering into contracts with the state for SLIAG related service cost reimbursement bringing the total number of local governments involved in the program to 18.

REIMBURSEMENT LEVELS AND COST PROJECTIONS

SLIAG Reimbursement Funds

On October 5, 1989, Congressional action was completed on the Conference Committee on Appropriations and the FFY 1990 SLIAG appropriation lost funding to an assortment of projects. More than two-thirds of the funds available to the states after the federal offset, or $555,214,000 of the $870,000,000 available was lost, leaving $314,756,000 from which state allocations will be made.

Florida has in the past received approximately 8% of the available SLIAG funds. Assuming that all things remained constant, Florida's allocation would be approximately $69.6 million. The reduction translates into a $44,419,520 loss in reimbursement for costs incurred, leaving a balance of $25,180,480 upon which to base contracts. It should be noted that this figure does not take into account either rollover funds from earlier grants nor the very real possibility of even less funds being available to Florida once the SLIAG allocation formula is run for FFY 1990. This formula considers such factors as level of earlier allocations, expenditures for those same periods and balance of available funds.

Proposed Administration Cuts in SLIAG Funds

It is our understanding that the Administration's budget proposal for FFY 1991 includes a rescission of $537 million of the $1 billion in SLIAG appropriation for 1991. Furthermore, it would eliminate the hard fought guarantee of the current repayment of $555 million of FFY 1990 SLIAG funds in 1992. This would amount to a total reduction in excess of $1 billion in SLIAG funds; a fact that hardly corresponds with SLIAG's purpose as stated in the March 10, 1988 regulations. The purpose was to "lessen" the financial impact on State and local governments. Rescinding or reducing the level of available funding does not "lessen" the burden rather it exacerbates an already difficult one.

A primary factor that must be referenced prior to detailing the projected SLIAG reimbursements across the life of the program, is that, while SLIAG allocations are only made for the first four fiscal years of the program, states may spend these funds through FFY 1994. Congress, designed the allocation process to front load SLIAG revenue to states. In essence, states were to be allocated four years of revenue over a seven year expenditure period. This latter period, referred to as "out years", is considered to be a period in which expenditures while slowing down, will continue to be incurred. The front loaded nature of the original funding structure foresaw the inevitability of this situation and allowed for its coverage by enabling the moving forward of earlier unexpended funds.

Known and Projected Service Utilization

In reviewing reimbursement levels, service utilization and cost projections tied to available funds to Florida, several factors, beyond the control of the state, preclude stating the exact level of either service utilization or SLIAG funds needed in the future. Of foremost significance is the protracted delay of the INS in processing the SAW legalization applications, the group which comprises nearly 70% of all applicants in the state. Nearly 40% of the these applicants remain unadjudicated. This inaction alone significantly hampers the task of projecting costs. Without closure on this subject, projections on ultimate cost claims can only be a subjective assessment. Two other factors need to be reiterated, a) the late issuance of federal regulations and guidelines to reconstruct service delivery and associated cost identification mechanisms, and b) the fact that the program was designed to **REIMBURSE** costs incurred, therefore relegating the program to always show costs trickling in rather than posting large immediately available figures.

To detail population impact and project cost, requires an understanding of the state's legalization applicants and their social service and educational needs. The preliminary analysis of the Florida eligible population, using nearly four year old application INS data, indicates that over 85% are between the ages of 18 and 54, nearly 75% were employed and most had less than a grammar school education. Consequently, education is of primary importance to this population.

Since Florida has a high proportion of SAWs, 70% of the state's total IRCA population, and knowing that they are a transient and low income population, housing and transportation costs are expected to continue to be claimed. This cost is further compounded by the fact that the utilization rate is presumed to be considerably higher than that of the Pre-82's who are not nearly as mobile and represent the group with the highest adjudication rate.

The expectation that mental health costs will remain an area to be claimed is based on factors such as ELAs being more likely to, a) lack knowledge and adjustment to American societal and cultural mores, b) tend to suffer stress due to separation from spouse and significant others, c) exhibit concern over the "public charge" issue, d) harbor fear of an uncertain future (i.e. delays in adjudication and potential for deportation and work related concerns, the recent "crop freeze" for instance), and others.

The age profile of the population would also lead one to assume that certain medical costs will continue to be incurred, such as prenatal care, immunization cost, tuberculosis and sexually transmitted disease treatment costs. Other areas where high cost will be incurred are inpatient and outpatient hospital services due to the anticipated tendency for a higher than average utilization rate for this population. This population has historically distanced itself from preventative health services and has not accessed routine primary care until the health issue has taken on critical proportions.

Consequently, in an effort to better identify and thus prioritize needs and services required, the state has negotiated the implementation of a statewide ELA Needs Assessment Survey. This survey will generate a Florida specific ELA profile to assist state and local policy makers in determining, a) how to focus services and b) the commensurate cost of these services. To date, our information is limited.

Cost Projections

Projections must consequently be made on the invoiced figures available and on what little is known about the state's ELA and applicant population. Using the invoiced figures is problematic in that few can be seen as final, although the first year invoices must be considered at least marginally solid. In many cases, application approved programs continue to carry zero (0) place holders due to documentation problems, and as a result of SLIAG regulations requiring applications to be based on empirical data after the first year's cost estimates, these programs must be projected forward as zero. The reason we cannot close out the first year and roll the funds forward, is that if we do so and a) adjudication rates are finalized (thus making those applicants' costs eligible for reimbursement claims), or b) a provider determines that they can utilize the CDS system, then the state will be unable to reimburse them if all funds have been rolled over.

It is important to review any projections with caution. While they are based on trends and increases that can be justified, they do not include costs for those programs carrying zero place holders. Nor do these projections include the program costs of services to aliens who are still in applicant status and therefore are not presently eligible for reimbursement. This is a very important point to accentuate, because when these applicants become ELAs, costs incurred by providers will be claimable back to the date they applied for legalized status.

This fact cannot be underestimated when the states costs and the projections based on them are reviewed.

CLOSING REMARKS

In conclusion, we ask that the Congress oppose all efforts to reduce SLIAG funds as well as to retain the guarantee of repayment of the $555 million of FY 1990 SLIAG funds in 1992 as approved in P.L. 101-166. Cutting SLIAG funds will only shift the cost of services to this population onto the already overburdened states. Action of this nature will threaten the agreement between the Congress and states; a relationship in essence entered into when Congress authorized reimbursement for costs incurred by the states in serving the formerly undocumented aliens. The proposed rescission of SLIAG funds on the part of the federal government places the states in the disadvantageous position of having to carry out their portion of the agreement, that is to provide services while the government reneges on their agreement to lessen the financial impact.

STATEMENT OF BILL HONIG

Mr. Chairman, to underscore the importance of State Legalization Impact Assistance Grants (SLIAG) for education in California, I would like to provide the members of your subcommittee with a description of the critical need for educating eligible applicants and our analysis of the trends in the actual and anticipated drawdown of SLIAG funds.

Background

As you know, the Immigration Reform and Control Act of 1986 (IRCA) authorized SLIAG grants, which local education agencies use to assist newly legalized persons adjusting under the provisions of the act. In brief, under IRCA, pre-82s (individuals residing in the U.S. since 1982) have the opportunity to attain legal status, hence the right to remain and work in the United States. This opportunity is also extended to Special Agricultural Workers (SAWs) who worked in agricultural jobs at least 90 days between May 1985 and May 1986.

Congress authorized SLIAG as a four-year, $4 billion dollar program with a seven-year spending cycle. This design was based on the premise, which is now proving correct, that states and localities would incur the greatest amount of SLIAG-related costs in the later years of the program.

Estimates of the Need for Educational Services in California

California faces both a dual challenge and an opportunity in the next few years. Approximately 1.6 million (55 percent) of the 3 million eligible applicants reside in California. The California Department of Education (CDE) faced the urgent responsibility of designing a system that would and could respond to the legalization needs of these newly legalized persons. To date, we have served approximately 790,000 students in our amnesty programs. We were the only state to offer educational services in 1987-88 and our programs continue to report a high participation rate from committed students who want to access available education services...not only to meet the minimum 40 education requirements, but to continue toward their goal of possible citizenship and more fully participating in our society.

One reason California has been able to attract such an impressive number of students is the unique educational delivery system that has been established in our state, combining adult schools, community colleges, and private non-profit agencies. Private non-profit agencies provide an especially vital link with the target population by establishing centers in the neighborhoods where students live and work. The breakdown of service providers by category is listed below:

- adult schools serve approximately 68% of the students;
- community colleges, 12%;
- private non-profit agencies, 20%.

Aiming to meet the needs of the adults enrolled, agencies have offered morning, afternoon, and evening classes in literacy, ESL, and civics seven days a week. Frequently, these classes have been offered around the clock. Classroom locations also have been modified based on the needs of the amnesty students who attend classes at community college campuses, adult schools, community centers, churches, recreation centers, places of business and industry, and even in the agricultural fields.

The enormity of the numbers served by our education providers is further complicated by the literacy levels of these students. California requires educational agencies to administer the IRCA Pre-Enrollment Appraisal to document demographic data and ability to speak and understand English. Results from the appraisal process developed by the Comprehensive Adult Student Assessment System (CASAS) indicate that 86 percent of the students tested function below a 215 on the CASAS scale. A score of 215 is the literacy benchmark in California's welfare reform program to indicate a student's readiness for pre-employment training. Another way to understand this score is that students scoring at a 215 or below indicate they have not mastered the basic skills that are included in the curriculum in the first six years of school. In fact, the mean reading score for amnesty students is 185 on this scale. The amnesty population truly demonstrates a strong need for education. More than one third of this population are not literate in their native language.

This is the impact of legalization on California. Our educational goal,therefore, cannot be limited to providing eligible amnesty applicants with the required minimum education for legalization purposes. It is important to provide those educational services which will help these new residents participate in California's economic mainstream and political process. CDE has established the following priorities for serving amnesty students not only to provide what is considered essential education to permit them to attain permanent residency, but also to provide them with basic literacy skills and training for citizenship:

- forty hours of instruction necessary to receive a "Certificate of Satisfactory Pursuit" which qualifies the recipient for permanent residency in the United States;
- training in basic literacy skills equivalent to a CASAS 215, which is the minimal generally-accepted literacy

bench mark for GAIN, JTPA, and other programs gauging literacy and potential employability. It is projected that this instruction would require roughly 350 total hours per applicant;

- training for citizenship, which would require approximately 100 hours of instruction beyond the literacy threshhold. This, coupled with the preceding steps, will require a total of about 450 hours per applicant.

Recently, California's Health and Welfare Agency contracted with CASAS to conduct a survey of newly legalized persons to learn more about this population. Between March and June, the contractors administered the survey through one-to-one interviews by trained, bilingual interviewers, with 5,019 legalization applicants randomly selected from enrollees in certain adult based education and English-as-a-Second-Language classes. The survey reveals a healthy, working population that is and wants to continue accessing educational services. Some highlights from the survey are:

- Nearly all respondents had worked in the United States at some time, and at least 70 percent were working full time during the survey. However, they comprise the working poor whose undereducation and lack of marketable skills prevent them from keeping pace with the rising demands of the workplace - despite their best efforts
- The general health of the Survey population, as determined through self-reports, was better than that of a general sample of comparably aged Hispanic Californians. Approximately 90 percent of the newly legalized survey respondents, as compared to 78% of the general population of Hispanic Californias, said they were in "excellent" or "good" health.
- All respondents were enrolled in SLIAG-funded English-as-a-Second Language or Civics educational programs at the time

of the survey. More than half were first-time users of educational services in the United States, and most were attending classes to increase general English language requirements in addition to satisfying legalization requirements. Virtually all survey respondents, answering a question about their future plans to attend classes, indicated they would do so. The finding on education underscores the tremendous opportunity amnesty education affords the target population. Millions of soon-to-be Americans are entering the world of adult education for the first time and see a prelude to what can be greater learning opportunities.

Estimated Costs for Providing Education and Trends in Expenditure of Funds

Based on the numbers and reported literacy levels, California is estimating a fiscal need of approximately one billion dollars to meet these priorities. Cost-effective utilization of SLIAG education dollars to increase their level of literacy and English skills will have a significantly positive impact on California's economy and the nation as a whole.

California never assumed that SLIAG funds would meet all state and local legalization costs. Our SLIAG expenditure plan purposely excludes some program elements so we can use our limited SLIAG funds for the most essential service categories. However, we are counting on the Congress to keep its commitment to the appropriation of $4 billion to be spent over a seven-year period.

California was originally allocated $1.7 billion which has been scheduled for The five-year expenditure plan for education resembled a bell curve of utilization patterns with start-up funds for 1987-88 and a major share of the funding in SFY 1989-90. This funding plan worked well for the first year, with providers only accessing about 28% of available funds. The low utilization rate can be explained by the late receipt of federal SLIAG funds and delays typically associated with the implementation of any major fiscal process with new providers. However, in 1988-89 early enrollment reports indicated that the response to education was overwhelming. By early

December, education agencies reported that there were 400,000 students currently enrolled with long lines waiting to access service.

It is important to remember that this population has always lived "in the shadows" and confusion about eligibility for educational services is causing them to hide again. Last Fall, IRCA was amended to allow outreach programs to seek out and recruit those in need of services. This new authority in outreach must be given a chance to connect eligible aliens with the education services they need, not only for their own benefit but also for the communities in which they live.

The United States Should Not Renege on its IRCA Commitment

The federal grants to states under the SLIAG program allow the nation and California the rare opportunity to integrate immigrants into the larger society. If we do not provide this education and training now, we will pay for it later with increased welfare and social costs. We cannot absorb any reduction in education dollars without giving committed immigrant students the message that the federal government is turning its back on promises of assistance to become fully participating members of American Society.

When the federal government only looks at the amount of SLIAG funds actually drawn by states, it ignores our accrued service liability and thereby underestimates the need. There is a significant lag between the time services are provided and when states receive, review, and pay claims from service providers. This is particularly exacerbated by the complex regulations and service prohibitions that surround SLIAG funding.

IRCA legislation provided appropriations of one billion per year for each of four years but also allowed spending of these funds for seven years, recognizing that there would be administrative problems in starting and operating a new program which seeks to serve a population which has been virtually "invisible."

Federal cuts in SLIAG funds will destroy this once in a lifetime opportunity to educate the latest wave of immigrants. The message we should be providing is to encourage this population to obtain as much education as possible so as to enable them to integrate into mainstream society, enjoy a higher quality of life, and save public assistance expenditures in the future.

I urge Congress to fully fund the appropriation of one billion for FFY 1991 and pay back the $550 million borrowed from SLIAG in FFY 1990. This nation would be negligent to assimilate three million newly legalized immigrants without equipping them with the skills to integrate as successfully as possible. The future personal welfare and earning power of this population rests, in large measure, on their acquisition of educational and linguistic competencies that will allow them to function effectively and to compete successfully in the labor market of the 1990s. The wise investment of SLIAG funds today will generate rather than deplete tax dollars for public benefit in the future.

STATEMENT OF CESAR A. PERALES, NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES

As Commissioner of the New York State Department of Social Services, and as Chair of the New York State Inter-Agency Task Force on Immigration Affairs, I want to ask the Subcommittee to consider this testimony regarding actual and estimated costs for the State Legalization Impact Assistance Grant (SLIAG) Program.

The issues under consideration by this Subcommittee, the availability of and need for SLIAG funds through the life of the program (Federal Fiscal Year 1994), are within my Department's responsibility. I am aware of efforts currently under way which would eliminate over one billion dollars in SLIAG funds and, in effect, shorten the program by three years (to FFY 1991). I therefore welcome this chance to demonstrate to the Subcommittee New York's need for at least full SLIAG funding. Furthermore, I expect that testimony from the U.S. General Accounting Office will support our assertion.

In order to demonstrate our need for full funding, it is necessary to explain to you why SLIAG claims and drawdown were slow in developing (although major upswings in both will be shown). We will also describe the current status of the program in New York, and what we plan to accomplish over the next 1 - 4 years.

There are two critical points to keep in mind throughout any discussion of SLIAG:

- Most states expect SLIAG costs to be at least equal to their anticipated allocation by the end of the SLIAG program. New York State currently expects to establish claims of approximately $372 million dollars, double the anticipated allocation of $175 million dollars (if fully funded), by FFY 1994.
- Congress, by approving SLIAG funding, in essence entered into an agreement with state and local governments that authorized reimbursement for costs incurred by them in providing public assistance, public health assistance and educational services to the newly legalized aliens. Any rescission of this funding amounts to a reneging of that promise on the part of the Federal government and is in contradiction of the balance of needs reached in the passage of the Immigration Reform and Control Act of 1986 that clearly provided states $4 billion for a full seven year program. The federal government has fulfilled its promise of providing legal status to many undocumented individuals; now state and local governments are looking for similar assurances and comparable treatment to ensure necessary resources to meet some of the costs incurred by the newly legalized aliens (NLA's).

I. DELAYS IN CLAIMING AND DRAWDOWN IN THE SLIAG PROGRAM: A HISTORICAL PERSPECTIVE

While many of the following points have been made before, by the states, by the American Public Welfare Association (APWA) and others, I believe it is helpful to reiterate them and, in some cases, expand upon them to understand the current status of SLIAG expenditures.

A. Federal Delays

- Both the Department of Health and Human Services and the Department of Justice contributed to a slow start-up by delays in issuance of regulations and guidance:

  - IRCA was enacted on November 6, 1986, and SLIAG administrative costs could be claimed from that date forward under the Act. DHHS did not publish final regulations for SLIAG until March of 1988, sixteen months after the start of the program, therefore slowing start-up of English and Civics classes and cost claiming efforts.
  - Written policy guidelines were not received from DHHS until April, 1988.
  - Cost claiming guidelines were not received until October, 1988, three months prior to the date actual costs were due for FFY 1988 in the DHHS End of Year Report.
  - The Cost Documentation System (CDS), developed by DHHS and until recently the only alternative to tracking individual newly legalized aliens to determine actual costs, was not available for use by states until June of 1989. (The Cost Documentation System is a computer matching system operated by Martin Marietta that allows states to document SLIAG eligible costs by allowing states blind access to the INS database using Social Security Numbers, and/or Alien Identification Numbers).
  - INS, through DHHS, did not provide states with adequate demographic data regarding NLA's for the FFY 1988 annual report and the FFY 1989 SLIAG application until March of 1989; the application was due from the states to DHHS by October, 1988, the Annual Report, December, 1988. As a result, extensive revision of both reports was required once the demographic data was updated in order to show appropriate state costs.
  - INS has been slow in processing Phase I (temporary residence) applications. All applications should have been made by November, 1988; it was expected that by March of 1989 all applications would have been processed. As of July 1989 (according to INS data) over 45,000 of New York's 169,000 applications, or 27%, had yet to be processed. The most recent INS data (as of March 5, 1990) shows 21,456 applications, or 13%, still pending, more than twelve months after the latest expected processing date. SLIAG claims for services for these 21,456 individuals, services provided up to 32 months ago, may still be disallowed if their pending applications are denied.
  - INS regulations regarding the deadline for filing Phase II (permanent residence) application was changed to allow NLA's up to 30 months from date of Phase I approval to apply for Phase II. Because of this change the last deadline was moved from November, 1990 to at least January, 1993 (for those still pending a Phase I determination). There are approximately 38,000 NLAs in New York State remaining to apply for Phase II between now and some time in 1993.
  - With regard to the provision of education services, SLIAG funds were not made available to the states until July, 1988. Although reluctant to expend significant funds of their own, given the need for funds in already tight state budgets, many states had established education programs and incurred significant costs in serving the newly legalized by this time. This difficult situation was compounded by two additional burdens:

    1) In June, 1988 (eight months into the fiscal year) states were informed that retroactive contracts/amendments would not be allowable for SLIAG reimbursement for FFY 1988. This policy was subsequently reversed, nevertheless at the time it contributed to delays.
    2) The 1.5% administrative cap imposed by IRCA on SLIAG education expenditures by state education agencies made it difficult to set up a cohesive statewide program.

  - Finally, almost every deadline (for FFY SLIAG applications, annual reports, and allocations) has been postponed, in most instances by several months. For example, the FFY, 1990 SLIAG allocation formula (for FFY 1990 grant award) originally set to be run in February of 1990, is now scheduled to be run by DHHS in June of 1990.

We don't fault DHHS or INS for every delay and change. In fact, several were requested, and others were viewed positively by the states. From the beginning, states realized the complexity of the SLIAG administrative process, despite the fact that SLIAG was established as a temporary funding mechanism. What is important to keep in mind is that these delays necessarily brought about many concomitant delays in states' processing of SLIAG claims; or at the very least the problems encountered by both federal and state administrators were viewed as legitimate by DHHS and INS staff and resulted in the changes made.

B. State and Local Government Delays

New York State experienced many of the difficulties other states faced in SLIAG start-up, and had a few unique circumstances as well. New York had 169,000 NLA applications representing 153 different nationalities

- Although SLIAG was designed as a temporary program, the federal mandates require states to set up elaborate systems, at significant administrative expense, to identify NLAs at service delivery, or in employing statistical sampling. In identifying Public Assistance costs, New York has experienced difficulty in having to identify newly legalized aliens within the service populations. This is particularly true in mental health and drug and alcohol abuse treatment programs. In many instances the identifying information is not available; in attempting to gather the data clients are asked for sensitive information not normally collected (i.e. alien status). Requesting this information for SLIAG can lead to clients (both NLAs and non-NLAs) avoiding necessary treatment.
- There still remain conflicting interpretations regarding which activities are allowable under SLIAG, or what activities are allowable under what category of service (public health vs. public assistance). The extent to which New York State must, for example, provide a breakdown of "public health" costs (i.e. screening and diagnosis) and "public assistance" costs (i.e. treatment) and non-SLIAG costs (i.e. social services) in many New York State Department of Health programs is burdensome, particularly when many of these programs are small-dollar programs (some equal to only $100 - $1000 in SLIAG costs). As with the issue of identifying public assistance costs in mental health, drug and alcohol abuse programs this amounts to an administrative burden which the federal guidelines have stated is not intended.
- Under SLIAG, most services (public health and public assistance) are provided first, with claims filed subsequently as reimbursement. The rate of claims would, by necessity, lag behind the delivery of services.
- Initially, many newly legalized individuals were unfamiliar with, or wary of using, appropriate services. Many feared that identification of their use of these services would place their permanent residency application at risk.
- Methods states were allowed to use, or encouraged to use (as in the case of CDS) in determining NLA's served and calculating costs incurred were felt to be lacking in their ability to identify all legitimate expenditures. This resulted in delays while alternative mechanisms were developed, reviewed and approved by DHHS.
- Most damaging of all perhaps, in terms of public (and Congressional) perception, was a basic assumption on the part of the states that the SLIAG funds authorized through 1994 would be available, as authorized, through 1994.

  SLIAG funds were to be appropriated in each of four fiscal years (1988 - 1991) with states developing claims for up to seven full fiscal years (1988 - 1994). The federal appropriation of four years of budget authority, for seven years of availability, is extremely unusual. It represented a commitment by Congress and the Executive Branch that the funds would be available for state and local governments through 1994. It was initially understood that spending might be slow and uneven; SLIAG made specific provision for carrying over unspent funds into the future fiscal years. Advance appropriation for SLIAG, intended originally to ensure access and availability of funds, now seems to have made it a more advantageous target for budget reductions.

II. CURRENT STATUS OF NEW YORK STATE SLIAG PROGRAM

As previously indicated, and as the chart below indicates, New York has only recently begun to draw down claims in substantial amounts. In fact, no claims were submitted or drawn until September, 1989. At that point, nearly $9 million in claims were submitted, with about $3 million of that drawn down. By the next fiscal quarter (December, 1989) the total claims submitted was $15 million, with $5 million total drawn down. As of June 1, 1990 New York State has drawn $10 million in SLIAG funds out of approximately $27 million in claims submitted.

It is important to note that the perception of draw down as indicative of a state's need for SLIAG monies is erroneous; in New York State this is not a valid indicator of need. **Current projections of SLIAG claims for New York State amount to $372 million over the life of the grant award. Given that our expected allocation will at best equal $175 million, difficult decisions must be made regarding which programs are to be reimbursed, after education and administrative claims are covered.** Until claims are generated, allowing those decisions to be

NEW YORK STATE
STATE LEGALIZATION IMPACT ASSISTANCE GRANT
(SLIAG)
CLAIMS SUBMITTED/DRAWNDOWN (CUMULATIVE)

AS OF:	SUBMITTED	DRAWNDOWN
3rd Qtr. FFY 1989	0	0
[illegible]	8.8m	3.3m
1st Qtr. FFY 1990	15.0m	5.0m
2nd Qtr. FFY 1990	27.3m	10.3m

made, New York State will be reluctant to draw down SLIAG monies on a first come, first serve basis. SLIAG payment priorities must be made based on actually available dollars and changing state-local needs.

In addition, New York has chosen to produce a public assistance claim in its single largest claim area (medical assistance and indigent medical care) through a statistical sampling methodology, and is currently involved in obtaining approval from DHHS for this method.

New York State expects to continue to submit claims at or above the current rate. Within the next 12 months we expect to additionally produce claims in excess of $100 million, primarily through the use of statistical sampling for public assistance claims, with an additional $70 - 80 million per year for the remaining three claim years. The attached New York State SLIAG Cost Report (Exhibit 1) indicates, by program area and by claiming year, New York State's expected claims.

As Exhibit 1 demonstrates, our Public Assistance claims will be the largest program covered, with an anticipated $293 million in claims. One of the approved programs in the Public Assistance category (Medical Assistance and Indigent Medical Care) will produce the majority of all SLIAG claims for our state. Current sampling has indicated that NIA's in New York City account for approximately 5% of all of New York City's medical assistance/indigent medical care.

In addition, New York State has 28 other approved public assistance programs in its SLIAG application, including Emergency Assistance to Families, Supplemental Security Income, and several housing/homeless housing programs.

In the area of Public Health Assistance, New York State has 64 approved programs in its application. We expect to produce about $31 million in claims in the Public Health area. These include 45 separate programs in New York City and New York State Departments of Health, such as Immunization, In-Patient and Outpatient Tuberculosis Screening and Pre-Natal Care, as well as programs in the State's Office of Mental Health, Department of Environmental Conservation and New York City's Departments of Environmental Protection and Sanitation.

Our current estimate of nearly $31 million in Education claims includes approximately $18 million for courses leading to certificates of satisfactory pursuit of English and Civics, enabling NIAs to be approved for Phase II, permanent resident status. The remaining $13 million would primarily be spent on general, adult education courses, to improve the chances for NIAs to obtain suitable employment and life skills. To date, the State Education Department (SED), through its contracts with provider agencies, has served over 50,000 NIAs in the area of English/Civics classes. Of those served, SED has found that nearly 75% are below English as a Second Language (ESL) Level 3. ESL Level 2 is described as those with little command of basic grammar, and often unintelligible pronunciation.

The estimated $15.6 million in Administration claims is, we believe, conservative, since it does not include administrative costs for New York City. As stated previously, in order to obtain what we believe is the best data available, for the fullest representation of NIAs and NIA cost, and in order to satisfy federal requirements, our statistical sampling plan must be extensive. We must, for example, sample a minimum of 7-8,000 individual cases in New York City's Health and Hospital Corporation for our indigent medical care claim. Even though we do seek to minimize our administrative costs whenever possible, this labor-intensive sample will increase our conservative estimate of $15 million to $25 million for administrative claims, the $10 million increase due to the additional New York City staff required to complete the sampling. Because the bulk of our claims lie in the public assistance area, we feel it is essential to utilize statistical sampling, given the current federal guideines.

Finally, we expect to fund Outreach services for Temporary Resident Education and Employment Discrimination Education to the maximum amount allowable under IRCA. New York State has had an extensive Phase I - Phase II Outreach effort for over a year now, and had proposed an employer education, anti-discrimination plan to INS in March of 1989. We are pleased to see the SLIAG funds now made available for these services. We are, however, concerned that these funds are now in jeopardy for future years.

III. PROPOSED FEDERAL ACTION ON SLIAG FUNDS

The President's budget proposal for FFY 1991 calls for a rescission of $537 million of the $1 billion in SLIAG appropriation for that fiscal year, and would eliminate the current authorized repayment of $555 million of FFY 1990 SLIAG funds in FFY 1992, for a total reduction of over $1 billion in SLIAG funds. In addition, language in the current budget proposal appears to limit any obligation of SLIAG funds beyond FFY 1991.

New York State, for the reasons provided in this testimony, opposes these attempts to rescind and/or restrict the full funding of the SLIAG program.

IV. SUMMARY

When Congress enacted IRCA in November of 1986, few presumed that the SLIAG appropriation would provide 100% reimbursement to state and local governments for all the reimbursable health, education and public assistance programs.

The final SLIAG rule, published March 10, 1988, states:

> " The purpose of SLIAG is to lessen the financial impact on State and local governments resulting from the adjustment of immigration status..." (Emphasis added).

Assuming a conservative estimate of 2.5 million individuals eligible for SLIAG funding, and an estimated $3.5 billion in full SLIAG funds available to the states ($4.0 billion appropriation less estimated $500 million Federal offset), the [illegible] cost for each Newly Legalized Alien for the five years each is eligible for services is $1,400, or $280 per individual per year. Given the range of programs already approved by DHHS (medical assistance, indigent medical care, mental health services, emergency housing, etc.) and given what we know about the NLA population, states' costs will almost certainly equal or exceed the $3.5 billion in full SLIAG funding.

We have provided evidence to you demonstrating that our slow drawdown is not indicative of an absence of State costs, but rather a slow start-up for the program for the variety of reasons described. As one final piece of evidence in this regard, let me refer you to the U.S. General Accounting Office's Report: "Anti-Drug Abuse Act of 1986, Time Taken by States to Draw Down Formula Grant Funds" published June, 1989. This report, requested by the US Senate Caucus on International Narcotics Control, addressed similar concerns regarding drawdown of federal funds. In the executive Summary, the GAO states:

> " After funds are awarded, grant recipients are required to initiate drawdowns only when funds are actually needed for disbursements. In New York State, drawdowns generally are the final step in a time-consuming process of transferring federal dollars to the state and the subsequent transferring of dollars to subrecipients, and therefore lag behind actual expenditures. Thus, drawdowns tend to understate the level of program activity initiated with grant funds" (Emphasis added).

As the title of their report indicates, GAO was studying a formula grant process, based almost exclusively on population, and was to be used to supplement current programs within the current fiscal year. SLIAG primarily involves applications to seek approval for reimbursement of a variety of programs (in New York State over 100 approved programs); grant award is based on a combination of NLA population and approved program costs from prior fiscal years.

New York State does not oppose the concept of returning unspent SLIAG funds to the Federal government, should there be any unspent SLIAG funds at the end of the program after all states have submitted all claims. We expect the Federal government to retrieve whatever monies remain, but in 1994, not in 1990.

Many State and local governments are now facing critical fiscal needs; New York State is among them. Rescission of SLIAG funding would only exacerbate the current state of affairs and most likely contribute to the probability of a "triage" environment in our communities. We estimate, for example, that for every $1 million in SLIAG funds, the state could serve 10,000 New York City School Health clients, 110 Emergency Housing Family Center clients, 50 Mental Health Outpatient clients, and 750 Supplemental Security Income clients. For every $1 million rescinded from the SLIAG program these or other state and local services, could suffer. Reduction in SLIAG funding affects not just the newly legalized aliens, it affects all New York State residents who utilize, or are eligible to utilize, these state and local programs.

Neither the states nor the Federal government can afford to change the SLIAG rules in midstream if, as we have shown, states have the population which needs the authorized services, and have the costs associated. The Federal government should honor its covenant established in IRCA, and commit to full funding to the state and local governments for the full funding period.

Finally, the states, primarily through the APWA Task Force on Immigration Reform, have sought simplification of this time-limited grant program almost since its inception. These changes would have reduced administrative costs and expedited claims. I urge Congress to once again consider simplification of the grant process for SLIAG, to ensure that the maximum amount of SLIAG funds provided to the state and local governments is available for the expressed purpose of this program, namely reimbursement for the public health, public assistance, and education costs incurred.

21-Jun-90

NEW YORK STATE SLIAG COST REPORT
STATEMENT OF ESTIMATED EXPENDITURES
AND FEDERAL FUNDING BALANCE
FOR THE PERIOD MAY 6, 1987 THROUGH SEPTEMBER 30, 1994
BY YEAR BY MAJOR PROGRAM AREA AS OF 4/30/90
EXHIBIT 1

COSTS

YEAR	EDUCATION	PUBLIC ASSISTANCE	PUBLIC HEALTH	ADMINISTRATION	OUTREACH	TOTAL SLIAG COSTS		STATE	NYC	LOCAL*
	(SCHD. A "FY	(SCHD. B "FY"	(SCHD. C "FY")							
1988	$428,137	$58,182,343	$4,665,606	$1,100,000	$0	$64,376,086		$24,681,565	$24,280,333	$15,414,187
1989	$8,361,588	$58,794,237	$6,713,746	$3,000,000	$1,000,000	$77,869,571		$32,531,601	$29,637,978	$15,699,992
1990	$12,800,000	$58,794,237	$6,498,130	$3,500,000	$300,000	$81,892,367		$34,492,803	$31,662,048	$15,737,516
1991	$8,200,000	$58,730,054	$6,427,974	$4,000,000	$500,000	$77,058,028		$32,060,711	$29,289,390	$15,707,928
1992-94	$1,000,000	$58,730,054	$6,427,975	$4,000,000	$300,000	$70,458,029		$29,060,711	$25,689,390	$15,707,928

TOTAL	$30,789,725	$293,230,925	$30,733,431	$15,600,000	$2,100,000		$372,454,080	$153,627,391	$140,559,140	$78,267,550

$372,454,081

*DOLLARS INCLUDE OUTSIDE HOSPITAL ALLOCATION FOR INDIGENT CARE OF $13,800,000 PER YEAR

ALLOCATIONS

	TOTAL ALLOCATIONS	
1988	$41,900,000	
1989	$47,600,000	
1990		
1991		
1992		

TOTAL		$89,500,000

PROJECTED SLIAG FUNDING NEED		$282,954,080
		==========
GRANT AWARD DRAWDOWNS [FROM EXHIBIT 2]		$13,032,467
		==========

STATEMENT OF MARK HELMAR, CALIFORNIA HEALTH AND WELFARE AGENCY

Thank you for inviting me to testify before your subcommittee concerning California's use of State Legalization Impact Assistance Grant (SLIAG) funds.

During the course of my testimony you asked me about program benefits that newly legalized persons could now obtain as a result of the Immigration Reform and Control Act of 1986 (IRCA). I indicated that, in addition to local general assistance (cash payment) programs, newly legalized persons are now entitled to limited Medicaid coverage if they meet program eligibility criteria regarding income level resources, and categorical linkage. Care is limited to emergency services and pregnancy-related services except for newly legalized children and those who are aged, blind, or disabled. These newly legalized individuals are entitled to the full scope of Medicaid services.

Prior to IRCA, undocumented persons were not eligible for Medicaid even if they met the program's eligibility criteria. Nearly simultaneously with the passage of IRCA, the Omnibus Budget Reconciliation Act of 1986 (OBRA) granted Medicaid reimbursement for emergency services (including labor and delivery) provided to undocumented persons who otherwise would meet program eligibility criteria. Thus IRCA and OBRA now provide limited Medicaid services to persons who were not previously entitled to Medicaid coverage.

You asked me whether all states provide IRCA and OBRA coverage under their Medicaid plans. I indicated that I believed it to be so, but offered to investigate the matter further. Research by California's Department of Health Services indicates that both IRCA coverage for newly legalized persons and OBRA coverage for undocumented aliens are mandated by federal law. States do not have the option of choosing to provide this coverage or not. As promised, I am providing you with this clarification for the hearing record.

Finally, your summary remarks helped put the issue of the FFY 1991 SLIAG appropriation into clear perspective for me. Although states will document SLIAG costs in excess of the total level of the SLIAG appropriation authorized by IRCA, you emphasized that your immediate concern is to appropriate limited federal funds to priority programs where they would be actually spent during FFY 1991. I greatly appreciate your indication, however, that action to rescind SLIAG funds for FFY 1992 is currently premature to consider, and that the discussion of the future SLIAG funding needs of states should be based on another year's worth of SLIAG program cost and payment data.

I, and my colleagues involved with SLIAG programs in other states, welcome the opportunity to provide your subcommittee with updated SLIAG cost and payment data. It will, I am confident, convince you and other members of Congress that full SLIAG funding for states is a sound and cost-effective investment -- one that will result in newly legalized persons becoming fully participating members of American society.

STATEMENT OF LAURIE BAGAN, DIRECTOR, COLORADO REFUGEE AND IMMIGRANT SERVICES PROGRAM

The Colorado Division of Refugee and Immigrant Services wishes to take the opportunity of the subcommittee's hearing into the State Legalization Impact Assistance Grant (SLIAG) authorized by P.L. 99-603 to provide to you and the subcommittee Colorado's expenditure experience with the Grant and to stress a continuing need for Grant awards in 1991 and 1992.

The State of Colorado was the first state given approval by the federal government of an application to expend SLIAG funds. Colorado received this approval of its 1988 application on June 7, 1988 and notice of a Grant award on June 28, 1988 (two days prior to the end of the state fiscal year). At the date of your hearing, Colorado will still not have received notice of a 1990 award although we submitted an application to HHS in September, 1989. The Colorado legislature has never appropriated state funds for SLIAG anticipating federal reimbursement, and therefore delays from the federal funding source have a substantial impact.

Colorado is the state of residence for 22,293 applicants for legalization. 10,149 Section 245a and 5,827 Section 210 applicants have been approved to date. 3,806 Section 210 applicants are still pending and 2511 have been denied.

SLIAG funds for federal fiscal years 1988, 1989, and 1990 have been expended in all of the three major areas allowed by the statute. The pattern of expenditure seems to parallel the pattern originally anticipated by Congress.

Education facilities have provided services to over 8100 persons who have been approved for temporary residence plus an additional 1000 persons either denied that status or still pending. Costs reimbursed to those providers approximate one third of Colorado's total Grant award to date. Interestingly, attendance and the demand for classes remains high.

Colorado's Department of Health moved aggressively to detect and treat Tuberculosis and expenditures for Public Health initially were at their peak. To date, Public Health expenditures have accounted for about 14% of the total of SLIAG awards to Colorado.

The area of persistent growth in costs is Public Assistance. Colorado operates a state wide medically indigent program which is funded by the state legislature to reimburse partial costs to health care providers for treatment of low-income persons who do not qualify for Medicaid. Both the cost of health care and the utilization of health care services by legalizing persons are increasing. Other public assistance programs have very low utilization although Medicaid costs are rising, especially for treatment of elderly persons. Public Assistance costs have taken about 40% of Colorado's SLIAG awards to date.

The final areas of expenditure are the newly allowed outreach and anti-discrimination components and SLIAG administration. The first two are capped by P.L. 101-238 at $100,000 each in Colorado. Assurances of speedy approval by HHS notwithstanding, Colorado's anti-discrimination plan approval has not yet been received and therefore, no expenditures are allowed. Outreach expenditures in FY 1989 and FY 1990 are anticipated to be about $140,000 and anti-discrimination expenditure in FY 1990 may reach $40,000 if approval is forthcoming. SLIAG administrative cost expenditures for FY 1988-90 will approximate 10% of the Grant Award received to date.

The original expectation of Congress was that costs to states would rise during the seven year period for which SLIAG funding was authorized. Based upon Colorado's experience, there is every reason to believe that the expectation of Congress was correct. Colorado has reimbursed, or can reasonably expect to reimburse, provider costs, for the first three fiscal years at a level which expends 95% of the awards received to date. The clear expectation is that in the next four fiscal years (FY 91,92,93, and 94) the costs to the State of Colorado of the legalization program will equal or exceed the expenditures of the first three years.

The legalizing alien population in Colorado is poor. Current information indicates that the poverty rate is greater than 70%. There is increasing utilization of costly health care services, including mental health services. These services are spread throughout the state, often in rural areas, and any failure to reimburse providers would have a serious health care consequence. Colorado is increasingly aware of undocumented family members joining the legalizing population. These family members are usually women and children who have greater medical needs, on the average, than the men they are joining. Because SLIAG reimbursement is not available for these undocumented persons, the continuance of reimbursement for SLIAG eligibles, at least at current levels, assumes an even greater importance.

In summary, Colorado's experience with the State Legalization Impact Assistance Grant may have been somewhat different than the experience of other states. Having a medium sized population of legalizing aliens and having been the first state to receive a Grant award allowed Colorado to designate service providers, and identify the local and state level expenditures attributable to this population more quickly. However, there is no reason to believe that Colorado's experience of a significant fiscal impact from this population is in any way unique. I urge the subcommittee to consider Colorado's experience in its deliberations, with special emphasis on the fact that most of our SLIAG Grant has already been expended; and recommend to the full Senate that SLIAG funding be maintained at current levels.

STATEMENT OF KATHLEEN KUSTRA, DIRECTOR, ILLINOIS DEPARTMENT OF PUBLIC AID

My name is Kathleen Kustra. I am Director of the Illinois Department of Public Aid (IDPA). The Department of Public Aid is the designated state agency for general administration of the State Legalization Impact Assistance Grant (SLIAG) in Illinois.

The Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, allowed millions of people in our country an unprecedented chance to dramatically and permanently change the status and quality of their lives. Over 150,000 of those individuals reside in Illinois. The news of this opportunity and the Congressional commitment to assist states in making this dream a reality was welcomed in immigrant communities throughout the nation. Both IRCA and SLIAG made a promise to immigrants and their local governments. We urge that this promise be kept.

The IDPA believes that each individual should be treated with dignity and be encouraged to become self-sufficient. We further pledge to lead through innovation and partnership with the many and varied communities we serve. The financial resources promised though SLIAG will enable us to meet these commitments in a manner which is effective and responsive to community needs. Although we appreciate the seriousness of the federal budget deficit, we strongly recommend that the Committee not address this problem by reducing the essential services funded through SLIAG.

The nature of SLIAG is such that it appears to be no more than an administrative pass-through of funds. As you know, public health and public assistance programs, states and local governments are reimbursed for participation of Eligible Legalized Aliens (ELAs) in existing programs if documentation requirements are met. When this is accomplished, the result is a silent one, a deposit of federal funds into state or local government accounts. This does not in any way diminish the importance of these funds. These funds are extremely important to the continuation of services for ELAs. Without federal funds, these services will not be available.

The remainder of my testimony will establish a more technical basis for our recommendation that you reject the proposed SLIAG funding reduction. It will provide a review of the start-up of the Illinois SLIAG program, projections of utilization trends in Illinois, and finally the projected impact of the proposed in FY 91 $537 million national SLIAG reduction.

I. PROGRAM START-UP

Congress is understandably misled by what appears to be a low level of drawdown of SLIAG funds by states. Illinois, like all other states, has experienced significant difficulties in implementing SLIAG and drawing down available funds in a timely manner. Federal delays in the issuance of regulations by both INS and DHHS, the restrictive definitions of allowable SLIAG services, and excessive administrative requirements for documenting SLIAG costs have limited the state's abilities to establish allowable costs and expend available funds. Nonetheless, we are very close to full documentation of allowable costs for fiscal years 1987 through 1989.

The exhaustive documentation required by DHHS in establishing public assistance and public health costs has made it extremely difficult for states to establish costs, draw down funds, and reimburse appropriate governmental entities. The federal Cost Documentation System for identifying public assistance costs was not available until June of 1989. States required time to compile electronic tapes, conduct test runs, and analyze results. Most states are only now beginning to confidently access the system for establishing actual costs.

Public health cost documentation has been perhaps even more frustrating. The federal requirement that the costs of treatment services be excluded from the costs of preventative services, activity by activity, in public health budgets has imposed an administrative hardship on state and local public health departments. In Illinois, it was necessary to retain the services of a professional consultation firm to prepare detailed cost allocation plans which could withstand meticulous federal review.

Education is the only SLIAG service area which allows the direct expenditure of funds for new services targeted to ELAs. SLIAG funds enabled the Illinois State Board of Education to double its capacity to serve adult ESL students in FY'89. Almost 40% of the Illinois adult education students are immigrants with limited English proficiency. During FY'89, Illinois SLIAG funds provided adult education services to over 58,000 unduplicated students. During the first half of FY'90 more than 20,000 adult students have participated in SLIAG-funded classes. The program design has been broadened from required English as a Second

Language and Civics to include a comprehensive array of adult education services including literacy, G.E.D. courses, parenting skills, and job readiness courses. During FY'89 Illinois spent $13.5 million on SLIAG-funded adult education services.

II. PROJECTED UTILIZATION TRENDS

In drafting the legislation, Congress recognized that public health and public assistance costs would increase during the authorization period while education costs would reach their peak in FY'89-FY'91. A wise provision for the carryover of funds was specified to protect states from inequitable local costs in the closing years of the program.

Public Assistance

Public assistance costs for ELAs will remain low until the INS public charge determination process has expired. At that point, most ELAs will have permanent resident status; they can then access state-funded cash and medical assistance without fear of losing their legal status. The deterrent effect of the public charge factor was underestimated by many states in their original public assistance projections.

Significant utilization of public assistance is anticipated beginning in FY'91. Public assistance utilization is projected to rise to the level of general population utilization. Many states estimate that their current four-year projected SLIAG allocation will barely meet the costs of cash and medical assistance for fiscal years 1991-1994.

Public Health

Public health costs are expected to rise through FY'89 as a direct result of the increased number of ELAs. After FY'89, public health costs should be relatively stable.

DHHS issued program directives in November of 1988 requiring states to establish a program service population ratio that is geographically and demographically specific for ELAs and the general service population. The exactness DHHS requires involved extensive statistical analyses of local population data. Another concern for states is the inability of many small local health departments to allocate expenditures by specific program activities as required by the program service population methodology. Coupled with the requirement to exclude treatment costs from public health budgets, it is improbable that states will reimburse substantial amounts for public health services until late FY'90 or early FY'91, when the dollars for fiscal years '87, '88, and '89 are drawn down in total.

It is my understanding that Illinois is one of the most successful states in documenting public health costs. Yet even Illinois has only been able to satisfactorily establish costs for the State, the City of Chicago, and a few small downstate counties. Once again, it will be necessary to retain professional consultants to conduct cost allocation plans for the larger counties and municipalities.

Education

Illinois has an outstanding record in providing educational opportunity to ELAs. In FY'89, 75% of ELAs applying for permanent residency in Illinois satisfied the English language/Civics requirement through participation in a SLIAG-funded course of study.

Educational services will show the highest SLIAG-related costs between FY'89 and FY'91. Most states, including Illinois, did not achieve full program start-up until the last two quarters of FY'89 due to the delays in the publication of DHHS SLIAG regulations and INS Second Stage regulations. We project that FY'90 education costs will equal or slightly exceed the $13.5 million expended in FY'89.

After ELAs achieve permanent residency, education utilization will decrease and ELA participation in ESL and basic adult education programs will become a purely voluntary process. This will occur in most states during FY'91. However, early estimates in Illinois indicate that up to 20% of ELAs will continue participation in SLIAG-funded education courses. States will continue to encourage participation in education programs by permanent residents in order to promote economic self-sufficiency and personal development.

Illinois projections indicate that if the proposed FY 91 $537 million reduction is implemented and not restored, the State will incur a minimum of $100 million in unreimbursed mandated SLIAG costs by September 30, 1994. With the reduction, Illinois will exhaust its SLIAG funds early in FY'92, three years prior to the legislated termination of the program. The state will be forced to abruptly diminish the educational opportunities made possible by SLIAG.

Politically, IRCA had a dynamic impact on immigrant communities. Eighteen percent of the City of Chicago is Hispanic, and the number is continuing to increase at a rapid pace. Eighty-nine percent of ELAs in Illinois are of Hispanic origin. To prematurely terminate SLIAG services would undermind the integrity of the program.

In addition to the elimination of SLIAG-specific activities, the proposed funding reduction shifts substantial costs to states. The inevitable result will be further erosion of resources for essential social and educational services. We ask the Committee not to sacrifice these vital human services.

IRCA affirmed that we are a land of immigrants and a land of opportunity. The proposed reduction in SLIAG funds withdraws that promise. We ask for Congress' continued support of the SLIAG program, for the funding decisions made now will not only impact the ELAs who need and deserve these service, but the lives of millions of Illinois residents.

Thank you for the opportunity to share these observations with you.